

Approved: April 26, 1996  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 1:00 p.m. on March 20, 1996 in Room 313-S of the Capitol.

All members were present except:

Representative Gary Merritt - Absent  
Representative Doug Spangler - Absent  
Representative Dee Yoh - Absent

Committee staff present: Jerry Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Cindy Wulfkuhle, Committee Secretary

Others attending: See attached list

**HB 2900** - Kansas juvenile justice reform act

Jerry Ann Donaldson, Legislative Research, provided the committee with a memo that contained sub committee recommendations. (Attachment 1)

Jill Wolters, Revisor of Statutes, provided the committee with a balloon of the sub committee's recommendations and proceeded to explain the recommended changes to the committee. (Attachment 2)

Representative Adkins made a motion to adopt the sub committee recommendations. Representative Mays seconded the motion. The motion carried.

Representative Howell made a motion to strike the balloon language on page 22. Representative Pauls seconded the motion. The motion carried.

Representative Pauls made a motion to amend that court hearings would be open if the juvenile was over the age of 16 and those between the ages of 10-16 would be open with judicial discretion to close them. Representative Adkins seconded the motion. The motion carried.

Representative Adkins made a motion that where dual sentencing was being sought, the juvenile would have the right to a jury trial and right to counsel. Representative Ruff seconded the motion. The motion carried.

Representative Howell made a motion to strike the compulsory attendance amendment. Representative Nichols seconded the motion. Representative Adkins explained that the reason for the compulsory attendance amendment was for parents to be able to ask for services for those who are 17 & 18 years of age. The motion failed.

Representative Adkins made a motion to report **HB 2900** favorably for passage as amended. Representative Mays seconded the motion. The motion carried.

The committee meeting adjourned at 2:00 p.m. The next committee meeting is scheduled for March 21, 1996.



# MEMORANDUM

## Kansas Legislative Research Department

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March 20, 1996

**To:** House Judiciary Committee  
**From:** Jerry Ann Donaldson, Principal Analyst  
**Re:** Issues Contained in H.B. 2900, with Subcommittee Recommendations

Section 1 -- Citation. The Juvenile Justice Reform Act of 1996.

Section 2 -- Mission Statement.

- Juvenile Offenders Code (current law) will be known as Juvenile Justice Code.
- Primary goal is public safety; hold juveniles accountable for behavior; improve the ability of juveniles to live productively and responsibly.
- Policies developed under the Code will be designed to:
  - ▶ ~~promote~~ <sup>protect</sup> public safety;
  - ▶ recognize solutions to juvenile crime lie in strengthening families and education involvement of the community, and implementation of effective prevention and early intervention programs;
  - ▶ be community based;
  - ▶ be family centered;
  - ▶ facilitate efficient and effective cooperation, coordination, and collaboration among agencies of local, state, and federal government;
  - ▶ be outcome-based with effective and accurate assessment of program performance;
  - ▶ be cost effective;
  - ▶ encourage the recruitment and retention of well qualified, highly trained professionals for all components of the system;

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Attachment 1

- ▶ appropriately reflect community norms and public priorities; and
- ▶ encourage public and private partnerships to address community risk factors.

New Section 3 -- Powers and duties of the Commission of Juvenile Justice.

The Commission will establish divisions in the Juvenile Justice Authority as follows.

- Operations. The Commission will monitor:
  - ▶ The juvenile intake and assessment system regarding juvenile offenders;
  - ▶ provide technical assistance and help facilitate community collaboration;
  - ▶ license juvenile correctional facilities, programs, and providers;
  - ▶ assist in coordinating a statewide system of community-based service providers;
  - ▶ establish pilot projects for community-based service providers; and
  - ▶ operate the juvenile correctional facilities.
- Research. The Commissioner will:
  - ▶ generate, analyze, and utilize data to review existing program and identify effective prevention programs;
  - ▶ develop new program initiatives and restructure existing program; and
  - ▶ assist communities in risk assessment and effective resource utilization.
- Contracts. The Commissioner will:
  - ▶ secure the services of direct providers by contracting with providers which can include nonprofit, private, or public agencies. Contracts will be with local services providers, when available, to provide 24-hour intake and assessment services.
    - local communities, by interlocal agreements, can participate in intake and assessment services.

- Performance Audit. The Commissioner will:
  - ▶ randomly audit contracts to determine that service providers are performing as required.

In addition, the Commissioner will:

- adopt rules and regulations as needed to administer the Act;
- administer all state and federal funds appropriated to the Juvenile Justice Authority;
- administer the development and implementation of a Juvenile Justice Information System;
- administer the transition to and implementation of juvenile justice system reforms;
- coordinate with the judicial branch any duties and functions which effect the Juvenile Justice Authority;
- serve as a resource to the Legislature and other state policymakers;
- make and enter into all contracts and agreements and any other acts necessary to carry out the duties and powers under the Act;
- accept custody of juvenile offenders according to court placement;
- assign juveniles in custody to juvenile correctional facilities based on information from the reception and diagnostic evaluation, intake and assessment report (see Section 7), and the predispositional investigation report;
- establish and utilize a reception and diagnostic evaluation for all juvenile offenders prior to placement in a juvenile correctional facility;
- assist judicial districts establish community-based placement options, community corrections services, and aftercare transition services for juvenile offenders;
- review, evaluate, and restructure the goals of juvenile correctional facilities to accommodate greater specialization for each facility; and
- adopt rules and regulations to encourage the sharing of information between individuals and agencies.

Section 4 -- The same as current law (K.S.A. 76-12a19).

Section 5 -- The same as current law (K.S.A. 76-12a20).

Section 6 -- The same as current law for subsections (a), (b), and (c) (K.S.A. 76-12a21).

Subsections (d), (e), and (f) provide:

- the Commissioner will not provide a pass, furlough, or leave to an institutionalized juvenile except for needed medical service or for reintegration into the community;
- all institutions will have perimeter security plan with fencing when appropriate; and
- the Commissioner will, by rules and regulations, establish a rigid grooming code and issue uniforms to juveniles held in a state juvenile correctional facility.

Section 7 -- Provides the following.

- The Supreme Court will provide through administrative orders for the establishment of a Juvenile Intake and Assessment System and for the establishment and operation of juvenile intake and assessment programs in each Judicial District. After July 1, 1997, the Commissioner will take over this duty.
- SRS can contract with the Commissioner to provide for the intake and assessment system and programs for children in need of care (CINC).
- All records, etc. obtained as a part of intake and assessment will be confidential and nondisclosable, except as provided by this Act, Supreme Court Rule, or by rule and regulation.
- No intake and assessment records, reports, and information can be admitted as evidence in any proceeding or used in a CINC proceeding except for diagnostic and referral purposes and by the court for dispositional alternative purposes. Mandatory reporting of child abuse or neglect records may be used in any CINC proceeding.
- After intake and assessment for a juvenile taken into custody by a law enforcement officer, the intake and assessment worker can do the following:
  - ▶ collect information such as:
    - a standardized risk assessment tool,
    - criminal history,
    - abuse history,
    - substance abuse history;

- history of prior community services used,
  - educational history,
  - medical history, and
  - family history.
- 
- ▶ release the child to parental or legal guardian custody if in the best interest of the child; and
  - ▶ conditionally release the child, as above, if certain conditions are met that would be in the best interest of the child. Conditions can include:
    - participation of the child in counseling;
    - participation of the child's family in counseling;
    - participation of the child and family and relevant others in mediation;
    - referral to SRS services;
    - referral to community services;
    - requiring a behavioral contract to provide for regular school attendance, among other requirements; and
    - any special conditions necessary to protect the child from a future further abuse or neglect.
  - ▶ deliver the child to a shelter facility or licensed care center which will take custody; or
  - ▶ refer the child to a prosecutor for appropriate proceedings or to SRS for investigation purposes.

Section 8 -- "Dual Sentencing."

- Upon an extended jurisdiction prosecution resulting in a guilty plea or finding of guilt, the court must:
  - ▶ impose one or more juvenile sanctions;

- ▶ impose an adult criminal sentence to be stayed on the condition the juvenile offender not violate the provisions of the juvenile sentence and not commit a new offense.
  
- Upon violation of the conditions of a stayed sentence, the court may revoke the stay and direct the juvenile offender be taken into immediate custody for imposition of the “adult” sentence. Provisions are included for notice of the revocation.
  
- A juvenile serving a juvenile sentence, upon reaching 18, can have a court hearing to review the juvenile sentence. If imposition of the juvenile sentence is continued, another review will be conducted within 36 months.

Section 9 --

- An assignment of support rights of a child in custody can be conveyed to the Commissioner, when appropriate. Procedures for assignment are contained in this section.

Section 10 -- Same as current law (K.S.A. 75-3335).

Section 11 -- Same as current law (K.S.A. 75-3335a).

Section 12 -- Same as current law (K.S.A. 75-3336).

Section 13 -- Same as current law (K.S.A. 75-3336a).

Section 14 --

- An interagency agreement between the Department of Corrections (DOC) and SRS will be developed in order to construct a maximum security correctional facility(ies) for violent, chronic, and serious juvenile offenders, as well as accommodate other services and functions.

Section 15 --

- Health insurance policies cannot deny health insurance benefits to a child in custody of the Commissioner.

Section 16 --

- Failure to pay support, as ordered, by a parent or guardian, can result in the revocation, suspension, or cancellation of a professional license or driver’s license.

Section 17 --



- Compulsory school attendance is required until the age of 18 unless a parent consents to child dropping out.

Section 18 -- Technical cleanup.

Section 19 -- Technical cleanup.

Section 20 -- Technical cleanup.

Section 21 -- Technical cleanup.

Section 22 -- Technical cleanup.

Section 23 --

- Expands the crime of contributing to a child's misconduct or deprivation to include contributing to a juvenile's violation of terms or conditions of probation.

Section 24 -- Technical cleanup.

Section 25 --

- Designates the Juvenile Justice Authority as a criminal justice agency with access to criminal history record information.

Section 26 -- Technical cleanup.

Section 27 -- Technical cleanup.

Section 28 -- Technical cleanup.

Section 29 -- Definition of juvenile intake and assessment worker as an individual authorized to perform intake and assessment services (see Section 7).

Section 30 --

- Allows the official file of a CINC to be shared with a placement provider or court services officer.

Section 31 --

- Allows certain CINC records and reports received by SRS to be accessed by the Child Death Review Board or juvenile intake and assessment workers.

Section 32 --

- Licensed social workers sharing information under the Juvenile Justice Code will not be subject to review by the Behavioral Sciences Regulatory Board.

Section 33 --

- Allows certain CINC records and reports to be shared by certain individuals and agencies.

Section 34 --

- Includes juvenile intake and assessment workers to the list of individuals who must report suspected child abuse or neglect.

Section 35 -- Technical cleanup.

Section 36 -- Technical cleanup.

Section 37 -- Technical cleanup.

Section 38 -- Technical cleanup.

Section 39 -- Technical cleanup and provides for waiver of a juvenile to the adult criminal justice system.

Section 40 -- Provides for an extension of jurisdiction, for placement purposes, of a juvenile offender until the age of 23 unless an adult sentence is imposed under which jurisdiction will continue until discharged by the court or other adult sentence process.

Section 41 -- Technical cleanup.

Section 42 -- Technical cleanup.

Section 43 -- After July 1, 1996, allows for expanded disclosure of juvenile offender court records (official file) to any placement provider or potential placement provider, as well as juvenile intake and assessment workers.

Section 44 -- After July 1, 1997, allows for open official files for juveniles, regardless of age, unless there is a judicial determination that disclosure would not be in the best interest of the juvenile. If a determination against disclosure is made, the current prohibition against disclosure of an official file and identifying information of the victim will be in place.

Section 45 -- Technical cleanup and expansion of disclosure for juvenile offenders under 16.

Section 46 -- Allows disclosure of juvenile offender medical, diagnostic, and treatment records upon request of a juvenile intake and assessment worker when the information is needed for screening, assessment, or placement decisions.

Section 47 -- Technical cleanup and contains a provision regarding who can access expunged records.

Section 48 -- Technical cleanup.

Section 49 -- Technical cleanup.

Section 50 -- Technical cleanup and contains provisions regarding how the expenses of juvenile offenders are to be paid.

Section 51 -- Technical cleanup and allows the Commissioner to contract for the collection of reimbursement monies as covered in other sections.

Section 52 -- A reportable event for a juvenile offender is expanded to include the issuance of an intake and assessment report.

Section 53 -- Technical cleanup and, after July 1, 1997, to expand a reportable event to include the report from a reception and diagnostic center.

Section 54 -- Provides that the Juvenile Offender Information System will be operational and functional by July 1, 1997 unless an extension of time is granted by the Criminal Justice Coordinating Council.

Section 55 -- Technical cleanup and adds a provision for access to juvenile offender information by an educational institution if the juvenile is required to attend the institution as part of an immediate intervention program or post release supervision..

Section 56 -- Technical cleanup.

Section 57 -- Expands the options of where a law enforcement officer, who takes a juvenile offender into custody, can place the juvenile to include an intake and assessment worker if an intake and assessment program exists. The worker will be allowed to release the juvenile after the process and prior to a detention hearing if the worker believes the juvenile will appear for further proceedings and will not be dangerous to self or others. The juvenile intake and assessment worker is required to furnish the prosecutor with a written copy of information collected.

Section 58 -- After July 1, 1997, when a law enforcement officer takes an alleged juvenile offender into custody, the provisions above apply, but an agreement pursuant to Section 62 would be required before an intake and assessment worker could release the juvenile.

Section 59 -- Technical cleanup.

Section 60 -- Technical cleanup.

Section 61 -- Technical cleanup.

Section 62 --

- Allows for the following:
  - ▶ courts may adopt policies for immediate intervention programs as follows:

- the court, prosecutor, and director of intake and assessment, in accord with a written agreement, can develop local programs to:
  - \* provide for direct referral of cases to youth courts, restorative justice centers, citizen review boards, hearing officers, or other local programs approved by the court;
  - \* allow intake and assessment workers to issue a summons;
  - \* allow the intake and assessment centers to directly purchase services for the juvenile and the juvenile's family; and
  - \* allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing upon a belief the juvenile will show up for further proceedings and will not be dangerous to self or others.

Section 63 -- July 1, 1997, for a juvenile 14, 15, 16, or 17 years of age who commits an offense, which, if committed by an adult, would be an off-grid felony, a person felony, a severity level 1 to 6 felony, or a drug severity level 1 or 2 felony or was committed while in the possession of a firearm or was charged with a felony after being convicted or adjudicated in a prior juvenile proceeding for committing an act that would be a felony if committed by an adult, and which occurred before the date of the new act (charge) and before the sentence or evidentiary hearing, the prosecutor may seek to prosecute the juvenile as an adult. The juvenile will be presumed to be an adult. The burden of proof will be on the juvenile (and his/her counsel) to rebut the presumption.

After proceedings are commenced, but before sentencing or the beginning of an evidentiary hearing, the prosecutor can request an extended jurisdiction juvenile prosecution and if the respondent fits the circumstances as outlined above, the burden of proof is on the juvenile to rebut the designation of extended jurisdiction. In all other circumstances, the juvenile will be presumed to be a juvenile unless there is good cause to designate an extended jurisdiction juvenile prosecution or to try the juvenile as an adult.

The court may allow an extended jurisdiction juvenile prosecution if there is substantial evidence for such a prosecution.

Section 64 -- Technical cleanup.

Section 65 -- Technical cleanup.

Section 66 -- Technical cleanup.

Section 67 -- Technical cleanup.

Section 68 -- Technical cleanup.

- Section 69 -- Unless it is not in the best interest of the juvenile, court proceedings will be open to the public.
- Section 70 -- Technical cleanup.
- Section 71 -- Technical cleanup.
- Section 72 -- Technical cleanup.
- Section 73 -- Technical cleanup.
- Section 74 -- Technical cleanup.
- Section 75 -- Technical cleanup.
- Section 76 -- Technical cleanup.
- Section 77 -- Expands the dispositional options available for juvenile offenders to include ordering the parents of a juvenile offender to participate in parenting classes and, if the juvenile offender is adjudicated for certain alcohol or drug-type offenses, the court can require the parents to attend an alcohol and drug safety action program with the juvenile offender.
- Section 78 -- Technical cleanup and provides a reporting form to be used by foster parents.
- Section 79 -- Technical cleanup.
- Section 80 -- Technical cleanup.
- Section 81 -- A parent, guardian, or person with whom a juvenile resides may be ordered to report any probation violations. Under current law, these designated persons are required to aid in enforcing terms and conditions of probation.
- Section 82 -- Technical cleanup.
- Section 83 -- Technical cleanup.
- Section 84 -- July 1, 1997, upon release from a juvenile correctional facility, the Commissioner, to ensure compliance with the conditions of release, may require parents or guardians of a juvenile offender to cooperate and participate in fulfilling the conditions of release.
- Section 85 -- Technical cleanup.
- Section 86 -- Technical cleanup and, July 1, 1997, unless a juvenile is sentenced under an extended jurisdiction juvenile prosecution and the Commissioner transfers the juvenile to the custody of the Secretary of Corrections, the juvenile can be conditionally released, at 23 years of age.
- Section 87 -- Technical cleanup.
- Section 88 -- Technical cleanup.

Section 89 -- Technical cleanup.

Section 90 -- Technical cleanup.

Section 91 -- Technical cleanup and procedure for placement and waiver to the adult criminal system.

Section 92 -- Technical cleanup.

Section 93 -- Technical cleanup and procedure for placement at a juvenile correctional facility, waiver to the adult criminal system, and extended jurisdiction sentence.

Section 94 -- Technical cleanup.

Section 95 -- Technical cleanup.

Section 96 -- Technical cleanup.

Section 97 -- Technical cleanup.

Section 98 -- Technical cleanup.

Section 99 -- Technical cleanup.

Section 100 -- Technical cleanup.

Section 101 -- Technical cleanup.

Section 102 -- Technical cleanup.

Section 103 -- Technical cleanup.

Section 104 -- Technical cleanup.

Section 105 -- Technical cleanup.

Section 106 -- Technical cleanup.

Section 107 -- Technical cleanup.

Section 108 -- Technical cleanup.

Section 109 -- Technical cleanup.

Section 110 -- Reference parental responsibility for health insurance. See Section 15.

Section 111 -- Same as Section 110.

Section 112 -- Same as Section 110.

Section 113 -- Same as Section 110.

Section 114 -- Same as Section 110.

Section 115 -- Technical cleanup.

Section 116 -- Technical cleanup.

Section 117 -- Technical cleanup.

Section 118 -- Technical cleanup.

Section 119 -- Technical cleanup.

Section 120 -- Technical cleanup.

Section 121 -- Requires school attendance up to the age of 18. (Current law is 16.) If child is 16 or 17 a parent may, in a written consent, allow a child to be exempt from this requirement.

Section 122 -- Same as Section 121.

Section 123 -- Technical cleanup.

Section 124 -- Technical cleanup.

Section 125 -- Technical cleanup.

Section 126 -- Technical cleanup.

Section 127 -- July 1, 1997, designates the Commissioner of Juvenile Justice as a member of the Criminal Justice Coordinating Council with access to juvenile offender information.

Section 128 -- Technical cleanup.

Section 129 -- Technical cleanup.

Section 130 -- Technical cleanup.

Section 131 -- Technical cleanup.

Section 132 -- On January 1, 1997, a Commissioner of Juvenile Justice may be appointed by the Governor to carry out the transfer of powers and duties from SRS regarding juvenile offenders to the Juvenile Justice Authority and the Commissioner.

Section 133 -- Technical cleanup.

Section 134 -- Requires a comprehensive transitional plan for the transfer of power, duties, and functions from SRS and other state agencies regarding juvenile offenders to the Juvenile Justice Authority and the Commissioner, as well as a plan for a juvenile offender placement matrix and a plan for the transfer from a state-based juvenile justice system to a community-based system. The Youth

Authority would be required to develop such a plan for consideration by the 1997 legislature.

- Additionally, the Youth Authority shall:
  - ▶ in coordination with other state agencies seek to coordinate the state's efforts to prevent juvenile drug and alcohol abuse;
  - ▶ develop a comprehensive strategy for prevention and early intervention for juvenile offenders, including risk assessment;
  - ▶ annually recognize six individuals or organizations that have made significant and positive contributions to Kansas youth;
  - ▶ recognize one male and one female Kansas youth for significant and positive contributions to the eradication of youth risk factors; and
  - ▶ appoint an Advisory Youth Council.

The bill creates the Kansas Endowment for Youth Fund to fund prevention programs for youths. The Youth Authority will be able to accept grants and donations, public and private, for the Fund. Procedures are outlined for administering the Fund.

Section 135 -- Provides for the membership and length of term of the Youth Authority. The Attorney General and Chief Justice of the Supreme Court, or designees, will be ex officio members of the Authority.

Section 136 -- Technical cleanup.

Section 137 -- Technical cleanup.

Section 138 -- Until July 1, 1997, SRS would be prohibited from issuing a pass, furlough, or leave for any institutionalized juvenile except for medical services or reintegration in the community. If a pass, furlough, or leave is granted, a staff member or designated adult will accompany the juvenile. All institutions will have a perimeter security plan. Grooming codes will be established and uniforms will be issued to juvenile offenders in the custody of SRS. (Same provisions set forth in Sec. 6 regarding the Commissioner beginning July 1, 1997.)

Section 139 -- Technical cleanup.

Section 140 -- Technical cleanup.

Section 141 -- Technical cleanup.

Section 142 -- Technical cleanup.

Section 143 -- Technical cleanup.



Section 144 -- The Commissioner will be authorized to issue work assignments to juveniles in custody who are placed in a Juvenile Correctional Facility.

Section 145 -- Technical cleanup.

Section 146 -- Technical cleanup.

Section 147 -- Technical cleanup.

Section 148 -- Technical cleanup.

Section 149 -- Technical cleanup.

Section 150 -- Technical cleanup.

Section 151 -- Severability clause.

Section 152 -- July 1, 1996, repealer section.

Section 153 -- July 1, 1997, repealer section.

Section 154 -- Effective date: statute book.

## HOUSE BILL No. 2900

By Representatives Adkins, Shallenburger, Sawyer, O'Neal and Garner and Alldritt, Becker, Beggs, Benlon, Boston, Compton, Correll, Empson, Findley, Flora, Freeborn, Glasscock, Goodwin, Graeber, Grant, Haley, Henry, Horst, Humerickhouse, Kirk, Landwehr, Lane, Larkin, Lowther, Mays, McKechnie, R. Nichols, Ott, Packer, Pettey, Pottorff, Ruff, Spangler, Standifer, Swenson, Tanner, Toelkes, Tomlinson, Weiland, Wempe, Wilk, Wilson and Yoh

2-6

15 AN ACT concerning juveniles; amending K.S.A. 10-1208, 20-302b, 21-  
16 2511, 21-3413, 21-3611, 21-3612, 21-3826, 22-4701, 28-170, 28-170a,  
17 28-172b, 38-1506, 38-1507, 38-1507b, 38-1508, 38-1522, 38-1562, 38-  
18 1569, 38-1601, 38-1604, 38-1605, 38-1609, 38-1610, 38-1613, 38-1614,  
19 38-1617, 38-1617, as amended by section 52 of this bill, 38-1618, 38-  
20 1618, as amended by section 54 of this bill, 38-1622, 38-1624, 38-1624,  
21 as amended by section 57 of this bill, 38-1626, 38-1632, 38-1633, 38-  
22 1636, 38-1637, 38-1638, 38-1639, 38-1640, 38-1653, 38-1656, 38-1657,  
23 38-1658, 38-1661, 38-1662, 38-1665, 38-1666, 38-1672, 38-1674, 38-  
24 1681, 38-1682, 38-1691, 38-16,111, 38-16,116, 38-16,117, 38-16,118,  
25 38-16,119, 38-16,120, 39-713c, 39-754, 39-756, 39-756a, 39-1301, 39-  
26 1302, 39-1303, 39-1307, 40-1909, 60-460, 65-1626, 72-978, 72-1111,  
27 74-5344, 74-5363, 76-2101, 76-2101a, 76-2101b, 76-2111, 76-2112, 76-  
28 2125, 76-2128, 76-2201, 76-2201a, 76-2219 and 76-2220 and K.S.A.  
29 1995 Supp. 8-237, 38-1502, 38-1528, 38-1602, 38-1602, as amended  
30 by section 38 of this bill, 38-1606a, 38-1607, 38-1607, as amended by  
31 section 43 of this bill, 38-1608, 38-1611, 38-1616, 38-1635, 38-1641,  
32 38-1652, 38-1655, 38-1663, 38-1664, 38-1668, 38-1671, 38-1673, 38-  
33 1675, 38-1676, 38-1677, 38-1692, 38-1813, 39-708c, 39-709, 40-19a10,  
34 40-19b10, 40-19c09, 40-19d10, 41-727, 65-516, 72-962, 72-1113,  
35 74-7335, 74-8810, 74-9501, 75-3765, 75-5206, 75-5220, 75-5229, 75-  
36 7001, 75-7002, 75-7008, 75-7009, 76-375, 76-381, 76-12a21, 76-12a25  
37 and repealing the existing sections; also repealing K.S.A. 38-1507a, 38-  
38 16,112, 75-3335, 75-3335a, 75-3336, 75-3336a, 76-12a18, 76-12a19,  
39 76-2210 and 76-2211 and K.S.A. 1995 Supp. 76-12a20 and 76-12a21,  
as amended by section 138 of this bill.

42 *Be it enacted by the Legislature of the State of Kansas:*  
43 New Section 1. This act shall be known and may be cited as the

juvenile justice reform act of 1996.

2 Sec. 2. On and after July 1, 1997, K.S.A. 38-1601 is hereby amended  
 3 to read as follows: 38-1601. ~~K.S.A. 38-1601 through 38-1685~~ Article 16  
 4 of chapter 38 of the Kansas Statutes Annotated and sections 8, 9 and 16,  
 5 and amendments thereto, shall be known and may be cited as the Kansas  
 6 juvenile offenders justice code and shall be liberally construed to the end  
 7 that each juvenile coming within its provisions shall receive the care,  
 8 custody, guidance, control and discipline, preferably in the juvenile's own  
 9 home, as will best serve the juvenile's rehabilitation and the protection  
 10 of society. The primary goal of the juvenile justice code is to promote  
 11 public safety, hold juvenile offenders accountable for such juvenile's be-  
 12 havior and improve the ability of juveniles to live more productively and  
 13 responsibly in the community. To accomplish this goal, juvenile justice  
 14 policies developed pursuant to the Kansas juvenile justice code shall be  
 15 designed to: (a) Protect public safety; (b) recognize that the ultimate so-  
 16 lutions to juvenile crime lie in the strengthening of families and educa-  
 17 tional institutions, the involvement of the community and the implemen-  
 18 tation of effective prevention and early intervention programs; (c) be  
 19 community based to the greatest extent possible; (d) be family centered  
 20 when appropriate; (e) facilitate efficient and effective cooperation, coordi-  
 21 nation and collaboration among agencies of the local, state and federal  
 22 government; (f) be outcome based, allowing for the effective and accurate  
 23 assessment of program performance; (g) be cost-effectively implemented  
 24 and administered to utilize resources wisely; (h) encourage the recruit-  
 25 ment and retention of well-qualified, highly trained professionals to staff  
 26 all components of the system; (i) appropriately reflect community norms  
 27 and public priorities; and (j) encourage public and private partnerships  
 28 to address community risk factors.

29 New Sec. 3. On and after July 1, 1997, in addition to other powers  
 30 and duties provided by law, in administering the provisions of the juvenile  
 31 justice code, the commissioner of juvenile justice shall:

32 (a) Establish the following divisions in the juvenile justice authority:

33 (1) Operations. The commissioner shall oversee the juvenile intake  
 34 and assessment system as it relates to the juvenile offender; provide tech-  
 35 nical assistance and help facilitate community collaboration; license ju-  
 36 venile correctional facilities, programs and providers; assist in coordinat-  
 37 ing a statewide system of community based service providers; establish  
 38 pilot projects for community based service providers; and operate the  
 39 juvenile correctional facilities.

40 (2) Research. The commissioner shall generate, analyze and utilize  
 41 data to review existing programs and identify effective prevention pro-  
 42 grams; to develop new program initiatives and restructure existing pro-  
 43 grams; and to assist communities in risk assessment and effective resource

utilization.

2 (3) Contracts. The commissioner shall secure the services of direct  
3 providers by contracting with such providers, which may include non-  
4 profit, private or public agencies, to provide functions and services  
5 needed to operate the juvenile justice authority. The commissioner shall  
6 contract with local service providers, when available, to provide 24-hour-  
7 a-day intake and assessment services.

Nothing provide for herein shall prohibit local municipalities,  
through interlocal agreements, from corroborating with and  
participating in the intake and assessment services  
established in section 7.

[Youth Authority subcommittee discussion]

8 (4) Performance audit. The commissioner shall randomly audit con-  
9 tracts to determine that service providers are performing as required pur-  
10 suant to the contract.

11 (b) Adopt rules and regulations necessary for the administration of  
12 this act.

13 (c) Administer all state and federal funds appropriated to the juvenile  
14 justice authority and any other agency within the executive branch for  
15 juvenile justice.

may coordinate with

16 (d) Administer the development and implementation of a juvenile  
17 justice information system.

expending funds appropriated

18 (e) Administer the transition to and implementation of juvenile jus-  
19 tice system reforms.

[SRS suggestion]

20 (f) Coordinate with the judicial branch of state government any duties  
21 and functions which effect the juvenile justice authority.

22 (g) Serve as a resource to the legislature and other state policymakers.

23 (h) Make and enter into all contracts and agreements and do all other  
24 acts and things necessary or incidental to the performance of functions  
25 and duties and the execution of powers under this act.

26 (i) Accept custody of juvenile offenders so placed by the court.

27 (j) Assign juvenile offenders placed in the commissioner's custody to  
28 juvenile correctional facilities based on information collected by the re-  
29 ception and diagnostic evaluation, intake and assessment report, pursuant  
30 to section 7 and the predispositional investigation report, pursuant to  
31 K.S.A. 38-1661, and amendments thereto.

32 (k) Establish and utilize a reception and diagnostic evaluation for all  
33 juvenile offenders to be evaluated prior to placement in a juvenile cor-  
34 rectional facility.

35 (l) Assist the judicial districts in establishing community based place-  
36 ment options, community corrections services and aftercare transition  
37 services for juvenile offenders.

38 (m) Review, evaluate and restructure the programmatic mission and  
39 goals of the juvenile correctional facilities to accommodate greater spe-  
40 cialization for each facility.

41 (n) Adopt rules and regulations as are necessary to encourage the  
42 sharing of information between individuals and agencies who are involved  
43 with the juvenile.

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2 New Sec. 4. On and after July 1, 1997, the commissioner shall ap-  
 3 point the superintendents of the juvenile correctional facility at Atchison,  
 4 the juvenile correctional facility at Beloit and the juvenile correctional  
 5 facility at Topeka and the directors of the juvenile correctional facility at  
 6 Larned and the juvenile correctional facility at Osawatomie. Superinten-  
 7 dents and directors shall be in the unclassified service under the Kansas  
 8 civil service act. A superintendent or director may be removed at any time  
 9 by the commissioner. Each superintendent and director shall receive an  
 10 annual salary fixed by the commissioner, with the approval of the gover-  
 11 nor. The commissioner may appoint an acting superintendent for any  
 12 institution which has a superintendent or an acting director for each in-  
 13 stitution which has a director to serve temporarily until a vacancy is filled.  
 14 Acting superintendents and directors shall have the same powers, duties  
 and functions as superintendents and directors.

15 New Sec. 5. On and after July 1, 1997, subject to K.S.A. 1995 Supp.  
 16 75-7003, and amendments thereto, employees of each institution shall be  
 17 appointed by the superintendent or director of the institution. All em-  
 18 ployees so appointed shall be in the classified service under the Kansas  
 19 civil service act, except physicians who shall be in the unclassified service  
 20 under the Kansas civil service act and as provided in K.S.A. 75-2935, and  
 21 amendments thereto, or any other statute.

22 New Sec. 6. On and after July 1, 1997:

23 (a) All jurisdiction, powers, functions and duties relating to institu-  
 24 tions as defined in K.S.A. 38-1602, and amendments thereto, are con-  
 25 ferred and imposed upon the commissioner to be administered within  
 26 the juvenile justice authority as provided by this act.

27 (b) The commissioner may adopt rules and regulations for the gov-  
 28 ernment, regulation and operation of institutions. The commissioner may  
 29 adopt rules and regulations relating to all persons admitted to institutions.

30 (c) The commissioner may enter into an educational services contract  
 31 with a unified school district, another public educational services provider  
 32 or a private educational services provider for an institution pursuant to  
 33 competitive bids or by negotiation as determined by the commissioner.  
 34 Each such educational services contract is exempt from the competitive  
 35 bid requirements of K.S.A. 75-3739, and amendments thereto.

36 (d) The commissioner shall not issue a pass, furlough or leave to any  
 37 juvenile placed in an institution except as needed for such juvenile to  
 38 obtain medical services or to reintegrate such juvenile into the commu-  
 39 nity. If any juvenile is issued a pass, furlough or leave, such juvenile shall  
 40 be accompanied by a staff member or other designated adult.

(e) ~~All institutions shall have secure perimeter fencing.~~  
 (f) The commissioner, by rules and regulations, shall establish a rigid  
 43 grooming code and shall issue uniforms to juvenile offenders in ~~the com-~~

The commissioner shall implement an institutional security plan designed to prevent escapes and to prohibit contraband and unauthorized access to the institution and, within the limits of appropriations, construct perimeter fencing as required by the institutional security plan.

an institution  
 [SRS suggestion]

~~commissioner's custody.~~

2 New Sec. 7. (a) The supreme court ~~shall promulgate rules~~ for the  
3 establishment of a juvenile intake and assessment system and for the  
4 establishment and operation of juvenile intake and assessment programs  
5 in each judicial district. On and after July 1, 1997, the secretary of social  
6 and rehabilitation services may contract with the commissioner of juvenile  
7 justice to provide for the juvenile intake and assessment system and pro-  
8 grams for children in need of care. ~~If the secretary does not contract with~~  
9 ~~the commissioner, the secretary shall promulgate rules and regulations~~  
10 ~~for the juvenile intake and assessment system and programs concerning~~  
11 ~~children in need of care.~~ On and after July 1, 1997, the commissioner of  
12 juvenile justice shall promulgate rules and regulations for the juvenile  
13 intake and assessment system and programs concerning juvenile of-  
14 fenders.

through administrative orders shall provide  
[OJA, Juvenile Intake Specialist suggestion]

[SRS suggestion]

15 ~~(b) All records, reports and information obtained as a part of the~~  
16 ~~juvenile intake and assessment process shall be confidential and shall not~~  
17 ~~be disclosed except as provided in this section, by supreme court rule~~  
18 ~~prior to July 1, 1997, or by rules and regulations established by the sec-~~  
19 ~~retary of social and rehabilitation services or the commissioner of juvenile~~  
20 ~~justice on and after July 1, 1997.~~

21 (1) Any court of record may order the disclosure of such records,  
22 reports and other information to any person or entity.

23 (2) The head of any juvenile intake and assessment program, certified  
24 pursuant to supreme court rule prior to July 1, 1997, or the secretary of  
25 social and rehabilitation services or the commissioner of juvenile justice  
26 on and after July 1, 1997, may authorize disclosure of such records, re-  
27 ports and other information to:

28 (A) A person licensed to practice the healing arts who has before that  
29 person a child whom the person reasonably suspects may be abused or  
30 neglected;

31 (B) a court-appointed special advocate for a child, which advocate  
32 reports to the court, or an agency having the legal responsibility or au-  
33 thorization to care for, treat or supervise a child;

34 (C) a parent or other person responsible for the welfare of a child,  
35 or such person's legal representative, with protection for the identity of  
36 persons reporting and other appropriate persons;

37 (D) the child or the guardian ad litem for such child;

38 (E) the police or other law enforcement agency;

39 (F) an agency charged with the responsibility of preventing or treat-  
40 ing physical, mental or emotional abuse or neglect or sexual abuse of  
41 children, if the agency requesting the information has standards of con-  
42 fidentiality as strict or stricter than the requirements of the Kansas code  
43 for care of children or the Kansas juvenile justice code, whichever is

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1 applicable,  
 2 (G) a person who is a member of a multidisciplinary team;  
 3 (H) an agency authorized by a properly constituted authority to di-  
 4 agnose, care for, treat or supervise a child who is the subject of a report  
 5 or record of child abuse or neglect;  
 6 (I) any individual, or public or private agency authorized by a properly  
 7 constituted authority to diagnose, care for, treat or supervise a child who  
 8 is the subject of a report or record of child abuse or neglect and specif-  
 9 ically includes the following: Physicians, psychiatrists, nurse, nurse prac-  
 10 titioners, psychologists, licensed social workers, child development spe-  
 11 cialists, physicians' assistants, community mental health workers, alcohol  
 12 and drug abuse counselors and licensed or registered child care providers.  
 13 (3) To any juvenile intake and assessment worker of another certified  
 14 juvenile intake and assessment program.

15 (e) No records, reports and information obtained as a part of the  
 16 juvenile intake and assessment process may be admitted into evidence in  
 17 any proceeding and may not be used in a child in need of care proceeding  
 18 except for diagnostic and referral purposes and by the court in considering  
 19 dispositional alternatives. However, if the records, reports or information  
 20 are in regard to abuse or neglect, which is required to be reported under  
 21 K.S.A. 38-1522, and amendments thereto, such records, reports or infor-  
 22 mation may then be used for any purpose in a child in need of care  
 23 proceeding pursuant to the Kansas code for care of children.

24 (d) Upon a child under the age of 18 years being taken into custody  
 25 pursuant to K.S.A. 38-1527, and amendments thereto, and being deliv-  
 26 ered to a juvenile intake and assessment worker, the worker shall com-  
 27 plete the intake and assessment process as required by supreme court  
 28 rule or district court rule prior to July 1, 1997, or rules and regulations  
 29 established by the commissioner of juvenile justice or the secretary of  
 30 social and rehabilitation services, whichever is applicable, on and after  
 31 July 1, 1997. After completion of the intake and assessment process for  
 32 such child, the intake and assessment worker may:

- 33 (1) Release the child to the custody of the child's parent or other  
 34 legal guardian if the intake and assessment worker believes that it would  
 35 be in the best interest of the child and it would not be harmful to the  
 36 child to do so.
- 37 (2) Conditionally release the child to the child's parent or other legal  
 38 guardian if the intake and assessment worker believes that if the condi-  
 39 tions are met, it would be in the child's best interest to release the child  
 40 to such child's parent or other legal guardian; and the intake and assess-  
 41 ment worker has reason to believe that it might be harmful to the child  
 42 to release the child to such child's parents or other legal guardian without  
 43 imposing the conditions. The conditions may include, but not be limited

(b)

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 38-1624, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and assessment process as required by supreme court administrative order or district court rule prior to July 1, 1997, or rules and regulations established by the commissioner of juvenile justice on and after July 1, 1997.

(d) In addition to any other information required by the supreme court administrative order, the secretary, the commissioner, or by the district court of such district, the juvenile intake and assessment worker shall collect the following information:

- (1) A standardized risk assessment tool, such as the problem oriented screening instrument for teens;
- (2) criminal history, including indications of criminal gang involvement;
- (3) abuse history;
- (4) substance abuse history;
- (5) history of prior community services used or treatments provided;
- (6) educational history;
- (7) medical history; and
- (8) family history.

(e)

[SRS suggestion, from subsections (f) and (g) of this section]

to:

- 2 (A) Participation of the child in counseling;
- 3 (B) participation of members of the child's family in counseling;
- 4 (C) participation by the child, members of the child's family and other
- 5 relevant persons in mediation;
- 6 (D) provision of inpatient treatment for the child;
- 7 (E) referral of the child and the child's family to the secretary of social
- 8 and rehabilitation services for services and the agreement of the child and
- 9 family to accept and participate in the services offered;
- 10 (F) referral of the child and the child's family to available community
- 11 resources or services and the agreement of the child and family to accept
- 12 and participation the services offered;
- 13 (G) requiring the child and members of the child's family to enter
- 14 into a behavioral contract which may provide for regular school atten-
- 15 dance among other requirements; or
- 16 (H) any special conditions necessary to protect the child from future
- 17 ~~or further~~ abuse or neglect.
- 18 (3) Deliver the child to a shelter facility or a licensed attendant care
- 19 center along with the law enforcement officer's written application. The
- 20 shelter facility or licensed attendant care facility shall then have custody
- 21 as if the child had been directly delivered to the facility by the law en-
- 22 forcement officer pursuant to K.S.A. 38-1528, and amendments thereto.
- 23 (4) Refer the child to the county or district attorney for appropriate
- 24 proceedings to be filed or refer the child and family to the secretary of
- 25 social and rehabilitation services for investigations in regard to the alle-
- 26 gations.
- 27 ~~(c) The report of the child in need of care intake and assessment~~
- 28 ~~process and any documents involved therein shall be distributed to the~~
- 29 ~~persons or entities provided by supreme court rule or district court rule~~
- 30 ~~prior to July 1, 1997, or by rules and regulations established by the sec-~~
- 31 ~~retary of social and rehabilitation services.~~
- 32 (f) Upon a juvenile being taken into custody pursuant to K.S.A. 38-
- 33 1624, and amendments thereto, a juvenile intake and assessment worker
- 34 shall complete the intake and assessment process as required by supreme
- 35 court rule or district court rule prior to July 1, 1997, or rules and regu-
- 36 lations established by the commissioner of juvenile justice on and after
- 37 July 1, 1997.
- 38 (g) In addition to any other information required by the supreme
- 39 court rule, the secretary, the commissioner, or by the district court of
- such district, the juvenile intake and assessment worker shall collect the
- following information:
- 42 (1) A standardized risk assessment tool, such as the problem oriented
- 43 ~~screening instrument for teens;~~

[SRS suggestion]



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2

- ~~(2) criminal history, including indications of criminal gang involvement;~~
- (3) abuse history;
- (4) substance abuse history;
- (5) history of prior community services used or treatments provided;
- (6) educational history;
- (7) medical history; and
- ~~(8) family history.~~

[SRS suggestion]

New Sec. 8. On and after July 1, 1997:

(a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

(1) Impose one or more juvenile sentences under K.S.A. 38-1663, and amendments thereto; and

(2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the juvenile offender not violate the provisions of the juvenile sentence and not commit a new offense.

(b) When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed adult sentence, the court, without notice, may revoke the stay and probation and direct that the juvenile offender be taken into immediate custody. The court shall notify the juvenile offender and such juvenile offender's attorney of record, in writing by certified mail, return receipt requested, of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the juvenile offender challenges the reasons, the court shall hold a hearing on the issue at which the juvenile offender is entitled to be heard and represented by counsel. After the hearing, if the court finds that reasons exist to revoke the stay of execution of the juvenile sentence, the court shall treat the juvenile offender as an adult and order any of the adult sanctions authorized by K.S.A. 21-4603d, and amendments thereto.

(c) Any juvenile who has been sentenced pursuant to subsection (a) and is serving the juvenile sentence, upon becoming 18 years of age, such juvenile is allowed a court hearing to review such juvenile sentence. If such juvenile sentence is continued, the court shall set a date of further review in no later than 36 months.

(d) This section shall be part of and supplemental to the Kansas juvenile justice code.

New Sec. 9. On and after July 1, 1997:

(a) In any case in which the commissioner pays for the expenses of care and custody of a child pursuant to K.S.A. 38-1601 et seq., and amendments thereto, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed

to the commissioner. Such assignment shall become effective upon placement of a child in the custody of the commissioner or upon payment of the expenses of care and custody of a child by the commissioner without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the commissioner pays for the expenses of care and custody of a child or a child is placed in the custody of the commissioner, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the commissioner, or the commissioner's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the commissioner on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(b) If an assignment of support rights is deemed to have been made pursuant to subsection (a), support payments shall be made to the juvenile justice authority.

(c) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or other person whose support rights are assigned, the commissioner shall file a notice of the assignment with the court ordering the payments without the requirement that a copy of the notice be provided to the obligee or obligor. The notice shall not require the signature of the applicant, recipient or obligee on any accompanying assignment document. The notice shall include:

- (1) A statement that the assignment is in effect;
- (2) the name of any child and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) a request that the payments ordered be made to the commissioner of juvenile justice.

(d) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward all support payments, including those made as a result of any garnishment, contempt, attachment, income withholding, income assignment or release of lien process, to the commissioner until the court receives notification of the termination of the assignment.

(e) If the claim of the commissioner for repayment of the child's share of the costs of care and custody of a child under K.S.A. 38-1601 *et seq.*, and amendments thereto, is not satisfied when such aid is discontinued, the commissioner shall file a notice of partial termination of assignment of support rights with the court which will preserve the assignment in regard to unpaid support rights which were due and owing at the time of

the discontinuance of such aid. A copy of the notice of the partial termination of the assignment need not be provided to the obligee or obligor.

The notice shall include:

(1) A statement that the assignment has been partially terminated;

(2) the name of any child and the caretaker or other adult for whom support has been ordered by the court;

(3) the number of the case in which support was ordered; and

(4) the date the assignment was partially terminated.

(f) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward all payments made to satisfy support arrearages due and owing as of the date the assignment of support rights was partially terminated to the commissioner until the court receives notification of the termination of the assignment.

(g) If the commissioner or the commissioner's designee has on file with the court ordering support payments, a notice of assignment of support rights pursuant to subsection (c) or a notice of partial termination of assignment of support rights pursuant to subsection (e), the commissioner shall be considered a necessary party in interest concerning any legal action to enforce, modify, settle, satisfy or discharge an assigned support obligation and, as such, shall be given notice by the party filing such action in accordance with the rules of civil procedure.

(h) Upon written notification by the commissioner's designee that assigned support has been collected pursuant to K.S.A. 44-718 or 75-6201 *et seq.*, and amendments thereto, or section 464 of title IV, part D, of the federal social security act, or any other method of direct payment to the commissioner, the clerk of the court or other record keeper where the support order was established, shall enter the amounts collected by the commissioner in the court's payment ledger or other record to insure that the obligor is credited for the amounts collected.

(i) An assignment of support rights pursuant to subsection (a) shall remain in full force and effect so long as the commissioner is providing public assistance in accordance with a plan under which federal moneys are expended on behalf of the child for the expenses of a child in the commissioner's care or custody pursuant to K.S.A. 38-1601 *et seq.*, and amendments thereto. Upon discontinuance of all such assistance and support enforcement services, the assignment shall remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of assistance until the claim of the commissioner for repayment of the unreimbursed portion of any assistance is satisfied. Nothing herein shall affect or limit the rights of the commissioner under an assignment of rights to payment for medical care from a third party pursuant to section 15, and amendments thereto.

(j) This section shall be part of and supplemental to the Kansas ju-

venile justice code.

2 New Sec. 10. On and after July 1, 1997:

3 (a) The commissioner of juvenile justice may establish, maintain and  
4 improve throughout the state, within the limits of funds appropriated  
5 therefor and any grants or funds received from federal agencies and other  
6 sources, regional youth care, evaluation and rehabilitation facilities, not  
7 to exceed 10 in number, for the purpose of: (1) Providing local authorities  
8 with facilities for the detention and rehabilitation of juvenile offenders,  
9 including, but not limited to juvenile offenders who are 16 and 17 years  
10 of age; (2) providing local authorities with facilities for the temporary  
11 shelter and detention of juveniles pending any examination or study to  
12 be made of the juveniles or prior to the disposition of such juveniles  
13 pursuant to the Kansas code for care of children or the Kansas juvenile  
14 justice code; and (3) providing short-term treatment and rehabilitation  
15 service for juveniles.

16 (b) Each such facility shall be staffed by a superintendent, matron  
17 and such other officers and employees considered necessary by the com-  
18 missioner for the proper management and operation of the center. The  
19 commissioner shall appoint the superintendent of each regional facility  
20 and fix the superintendent's compensation with the approval of the gov-  
21 ernor. Each superintendent shall appoint all other officers and employees  
22 for such regional facility, subject to the approval of the commissioner.

23 (c) The commissioner may adopt rules and regulations relating to the  
24 operation and management of any regional youth care facility established  
25 pursuant to the provisions of sections 10 through 13, and amendments  
26 thereto.

27 New Sec. 11. On and after July 1, 1997:

28 (a) Within the limits of funds appropriated therefor and any grants  
29 or funds received from any agency of the United States government, and  
30 other sources, the commissioner of juvenile justice may establish, main-  
31 tain and improve throughout the state supplemental youth care facilities  
32 for children who are delinquent, miscreant or juvenile offenders and who  
33 are confined in institutions, for the purpose of providing treatment and  
34 rehabilitation services for the children. All children placed in supplemen-  
35 tal youth care facilities shall be subject to laws applicable to juvenile of-  
36 fenders who are placed in any other juvenile correctional facility, as de-  
37 fined by K.S.A. 38-1602, and amendments thereto. The commissioner  
38 may adopt rules and regulations relating to the operation and manage-  
39 ment of any supplemental youth care facility established pursuant to this  
40 section.

41 (b) The supplemental youth care facility or youth rehabilitation center  
42 established at Osawatomie state hospital shall be known as the juvenile  
43 correctional facility at Osawatomie. Any reference to this supplemental

2 youth care facility, youth rehabilitation center or the youth center at Os-  
3 awatomie, or words of like effect, in any statute, contract or other docu-  
4 ment shall be deemed to apply to the juvenile correctional facility at  
5 Osawatomie. The juvenile correctional facility at Osawatomie shall be  
6 under the supervision and control of the commissioner in accordance with  
7 section 6. All juvenile offenders placed in the juvenile correctional facility  
8 at Osawatomie shall be subject to laws applicable to juvenile offenders  
9 placed in any other juvenile correctional facility, as defined by K.S.A. 38-  
10 1602, and amendments thereto.

11 (c) The supplemental youth care facility or youth rehabilitation center  
12 established at Larned state hospital shall be known as the juvenile cor-  
13 rectional facility at Larned. Any reference to this supplemental youth care  
14 facility, youth rehabilitation center, the youth center at Larned, or words  
15 of like effect, in any statute, contract or other document shall be deemed  
16 to apply to the juvenile correctional facility at Larned. The juvenile cor-  
17 rectional facility at Larned shall be under the supervision and control of  
18 the commissioner in accordance with section 6. All juvenile offenders  
19 placed in the juvenile correctional facility at Larned shall be subject to  
20 laws applicable to any other juvenile correctional facility, as defined by  
21 K.S.A. 38-1602, and amendments thereto.

22 New Sec. 12. On and after July 1, 1997, the commissioner may es-  
23 tablish supplementary facilities as geographical extensions of any institu-  
24 tion, which shall be operated in connection with and as a part of the  
25 institution, and all patients or persons placed or cared for in such sup-  
26plementary facilities shall be admitted in accordance with the laws relat-  
27ing to the admission of patients or persons in such institution, and such  
28 patients or persons shall be subject to all laws and rules and regulations  
29 relating to such institution.

30 New Sec. 13. On and after July 1, 1997:

31 (a) The commissioner of juvenile justice is hereby authorized and  
32 empowered to establish and maintain at any institution, as defined in  
33 K.S.A. 38-1602, and amendments thereto, residential care facilities for  
34 children and youth committed or relinquished to the commissioner.

35 (b) Each residential care facility established under this section shall  
36 be under the supervision and administration of the commissioner. The  
37 commissioner shall appoint all employees of the residential care facility  
38 who shall be in the classified service under the Kansas civil service act.

39 (c) The commissioner is hereby authorized to adopt all necessary  
40 rules and regulations relating to the operation and management of any  
41 residential care facility established pursuant to the provisions of sections  
42 10 through 13.

43 New Sec. 14. On and after July 1, 1996, the department of correc-  
44 tions, through an interagency agreement with the department of social

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and rehabilitation services, shall develop a plan to construct a maximum security juvenile correctional facility or facilities. Such facility or facilities shall be designed to house violent, chronic and serious juvenile offenders; and to accommodate other services and functions, such as detention centers, intake and assessment centers and reception and diagnostic services. Such plans shall be presented to the joint committee on state building construction.

New Sec. 15. On and after July 1, 1997:

(a) All individual and group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type contracts issued by a profit or nonprofit corporation and all contracts issued by health maintenance organizations organized or authorized to transact business in this state which provides coverage for a family member of the enrollee, insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a child in the custody of the commissioner of juvenile justice.

(b) The contract issued by a health maintenance organization may provide that the benefits required pursuant to this subsection shall be covered benefits only if the services are rendered by a provider who is designated by and affiliated with the health maintenance organization.

~~New Sec. 16. (a) If any parent or guardian who is ordered to pay support or for services provided to a juvenile pursuant to the juvenile justice code, K.S.A. 38-1601 et seq., and amendments thereto, fails to pay for such support or services and a finding of contempt is entered by the district court, the district court where such order for support or services was issued may revoke, suspend or cancel such parent or guardian's professional license that is issued by the state of Kansas.~~

~~(b) Upon receiving notice of such action taken pursuant to subsection (a), any state board, commission or agency that issued such professional license shall revoke, suspend or cancel such license.~~

~~(c) If any parent or guardian who is ordered to pay support or for services provided to a juvenile pursuant to the juvenile justice code, K.S.A. 38-1601 et seq., and amendments thereto, fails to pay for such support or services, the district court where such order for support or services was issued may revoke, suspend or cancel such parent or guardian's driver's license.~~

~~(d) Upon receiving notice of such action taken pursuant to subsection (c), the division of motor vehicles shall revoke, suspend or cancel such license.~~

~~(e) This section shall be part of and supplemental to the juvenile justice code.~~

Sec. 17. On and after July 1, 1997, K.S.A. 1995 Supp. 8-237 is hereby

Insert attached sections.

New Sec. 16.

(a) Except as provided in subsection (b), a child's parent, parents or guardian shall be liable to repay to the commissioner of juvenile justice, or any other person or entity who provides services pursuant to a court order issued under the juvenile justice code, any assistance expended on the child's behalf, regardless of the specific program under which the assistance is or has been provided. When more than one person is legally obligated to support the child, liability to the commissioner or other person or entity shall be joint and several. The commissioner or other person or entity shall have the power and authority to file a civil action in the name of the commissioner or other person or entity for repayment of the assistance, regardless of the existence of any other action involving the support of the child.

(b) With respect to an individual parent or guardian, the provisions of subsection (a) shall not apply to:

(1) Assistance provided on behalf of any person other than the child of the parent or guardian;

(2) assistance provided during a month in which the needs of the parent or guardian were included in the assistance provided to the child; or

(3) assistance provided during a month in which the parent or guardian has fully complied with the terms of an order of support for the child, if a court of competent jurisdiction has considered the issue of support. For the purposes of this subsection, if an order is silent on the issue of support, it shall not be presumed that the court has considered the issue of support. Amounts paid for a particular month pursuant to a judgment under This section shall be credited against the amount accruing for the same month under any other order of support for the child, up to the amount of the current support obligation for that month.

(c) When the assistance provided during a month is on behalf of more than one person, the amount of assistance provided on behalf of one person for that month shall be determined by dividing the total assistance by the number of people on whose behalf assistance was provided.

(d) Actions authorized herein are in addition to and not in substitution for any other remedies.

[Youth Authority subcommittee discussion]  
[Language similar to K.S.A. 39-718b]

Sec. 17. On and after July 1, 1996, K.S.A. 20-1204a is hereby amended to read as follows:

(a) When an order in a civil action has been entered, the court that rendered the same may order a person alleged to be guilty of

indirect contempt of such order to appear and show cause why such person should not be held in contempt if there is filed a motion requesting an order to appear and show cause which is accompanied by an affidavit specifically setting forth the facts constituting the alleged violation.

(b) Except as provided in subsection (e), the order to appear and show cause shall be served upon the party allegedly in contempt by the sheriff or some other person appointed by the court for such purpose. Such order shall state the time and place where the person is to appear and shall be accompanied by a copy of the affidavit provided for in subsection (a). The court shall hear the matter at the time specified in the order, and upon proper showing, may extend the time so as to give the accused a reasonable opportunity to purge oneself of the contempt. If the court determines that a person is guilty of contempt such person shall be punished as the court shall direct.

(c) If, after proper service of the order to appear and show cause, the person served shall not appear in court as ordered, or if the court finds at a hearing held on motion of a party to the civil action that the person allegedly in contempt is secreting oneself to avoid the process of the court, the court may issue a bench warrant commanding that the person be brought before the court to answer for contempt. When such person is brought before the court, the court shall proceed as provided in subsection

(b). The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(d) The provisions of this section shall apply to both criminal and civil contempts, but in the case of a criminal contempt the court on its own motion may cause the motion and affidavit provided for in subsection (a) to be filed.

(e) In cases involving an alleged violation of a restraining order issued pursuant to paragraph (2) of subsection (a) of K.S.A. 60-1607, and amendments thereto, if the affidavit filed pursuant to subsection

(a) alleges physical abuse in violation of the court's order, the court immediately may issue a bench warrant and proceed as provided in subsection (c).

(f) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the secretary of social and rehabilitation services, and the evidence shows that the person is or may be authorized to practice a profession by a licensing body as defined in K.S.A. 1995 Supp. 74-146, the court, in addition to any other remedies, may order that a notice pursuant to subsection (a) of K.S.A. 1995 Supp. 74-147 and amendments thereto be served on the licensing body. If the person found guilty of contempt as provided in this subsection is a licensed attorney, the court may file a complaint with the disciplinary administrator if the licensing



agency is the Kansas supreme court, or the appropriate bar counsel's office if the licensee practices in another state.

(g) If such person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the secretary of social and rehabilitation services, in an amount equal to or greater than the amount of support payable for six months or the obligor has been ordered by the court to pay a sum certain each month toward the liquidation of the arrearages and the obligor has substantially failed to abide by that order, the court may restrict the obligor's driver's license. Such restriction may include, but not be limited to, driving to, from and during the course of such person's employment. The court may order the public office, as defined in K.S.A. 23-4,106, and amendments thereto, to contact the division of vehicles of the department of revenue to restrict the obligor's driver's license as indicated in the court order until further order of the court.

~~(g)~~ (h) The court shall not recognize a motion to issue nor order in a civil or criminal action a contempt citation against any person who reports or publishes the information that a gag order has been issued by the court.

**Sec. 18. On and after July 1, 1997, K.S.A. 20-1204a, as amended by section 16 of this bill is hereby amended to read as follows:**

(a) When an order in a civil action has been entered, the court that rendered the same may order a person alleged to be guilty of indirect contempt of such order to appear and show cause why such person should not be held in contempt if there is filed a motion requesting an order to appear and show cause which is accompanied by an affidavit specifically setting forth the facts constituting the alleged violation.

(b) Except as provided in subsection (e), the order to appear and show cause shall be served upon the party allegedly in contempt by the sheriff or some other person appointed by the court for such purpose. Such order shall state the time and place where the person is to appear and shall be accompanied by a copy of the affidavit provided for in subsection (a). The court shall hear the matter at the time specified in the order, and upon proper showing, may extend the time so as to give the accused a reasonable opportunity to purge oneself of the contempt. If the court determines that a person is guilty of contempt such person shall be punished as the court shall direct.

(c) If, after proper service of the order to appear and show cause, the person served shall not appear in court as ordered, or if the court finds at a hearing held on motion of a party to the civil action that the person allegedly in contempt is secreting oneself to avoid the process of the court, the court may issue a bench warrant commanding that the person be brought before the court to answer for contempt. When such person is brought before the court, the court shall proceed as provided in subsection

(b). The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(d) The provisions of this section shall apply to both criminal and civil contempts, but in the case of a criminal contempt the court on its own motion may cause the motion and affidavit provided for in subsection (a) to be filed.

(e) In cases involving an alleged violation of a restraining order issued pursuant to paragraph (2) of subsection (a) of K.S.A. 60-1607, and amendments thereto, if the affidavit filed pursuant to subsection

(a) alleges physical abuse in violation of the court's order, the court immediately may issue a bench warrant and proceed as provided in subsection (c).

(f) If a person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the ~~secretary of social and rehabilitation services~~, commissioner of juvenile justice and the evidence shows that the person is or may be authorized to practice a profession by a licensing body as defined in K.S.A. 1995 Supp. 74-146, the court, in addition to any other remedies, may order that a notice pursuant to subsection (a) of K.S.A. 1995 Supp. 74-147 and amendments thereto be served on the licensing body. If the person found guilty of contempt as provided in this subsection is a licensed attorney, the court may file a complaint with the disciplinary administrator if the licensing agency is the Kansas supreme court, or the appropriate bar counsel's office if the licensee practices in another state.

(g) If such person is found guilty of contempt in a child support enforcement proceeding, including an assignment of child support rights to the ~~secretary of social and rehabilitation services~~ commissioner of juvenile justice, in an amount equal to or greater than the amount of support payable for six months or the obligor has been ordered by the court to pay a sum certain each month toward the liquidation of the arrearages and the obligor has substantially failed to abide by that order, the court may restrict the obligor's driver's license. Such restriction may include, but not be limited to, driving to, from and during the course of such person's employment. The court may order the public office, as defined in K.S.A. 23-4,106, and amendments thereto, to contact the division of vehicles of the department of revenue to restrict the obligor's driver's license as indicated in the court order until further order of the court.

(h) The court shall not recognize a motion to issue nor order in a civil or criminal action a contempt citation against any person who reports or publishes the information that a gag order has been issued by the court.

[KS Bar Assn. Suggestion]

Renumber remaining sections accordingly.

amended to read as follows: 8-237. The division of vehicles shall not issue any driver's license to any person:

(a) Who is under the age of 16 years, except that the division may issue a restricted class C or M license, as provided in this act, to any person who: (1) Is at least 15 years of age; (2) has successfully completed an approved course in driver training; and (3) upon the written application of the person's parent or guardian. Except as hereafter provided, the application of the parent or guardian shall be submitted to the division. The governing body of any city, by ordinance, may require the application of any person who is under 16 years of age and who resides within the city to be first submitted to the chief law enforcement officer of the city. The board of county commissioners of any county, by resolution, may require the application of any person who is under 16 years of age and who resides within the county and outside the corporate limits of any city to be first submitted to the chief law enforcement officer of the county. No ordinance or resolution authorized by this subsection shall become effective until a copy of it is transmitted to the division of vehicles. The chief law enforcement officer of any city or county which has adopted the ordinance or resolution authorized by this subsection shall make a recommendation on the application as to the necessity for the issuance of the restricted license, and the recommendation shall be transmitted, with the application, to the division of vehicles. If the division finds that it is necessary to issue the restricted license, it shall issue a driver's license to the person.

A restricted class C license issued under this subsection shall entitle the licensee, while possessing the license, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto. A restricted class M license shall entitle the licensee, while possessing such license, to operate a motorcycle. The restricted license shall entitle the licensee to operate the appropriate vehicle at any time: (1) While going to or from or in connection with any job, employment or farm-related work; (2) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purposes of school attendance; (3) when the licensee is operating a passenger car, at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or (4) when the licensee is operating a motorcycle, at any time when accompanied by an adult who is the holder of a valid class M driver's license and who is operating a motorcycle in the general proximity of the licensee.

Any licensee issued a restricted license under this subsection shall not operate any motor vehicle with nonsibling minor passengers.

A restricted driver's license issued under this subsection is subject to

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1 suspension or revocation in the same manner as any other driver's license.  
2 In addition, the division may suspend the restricted driver's license upon  
3 receiving satisfactory evidence that: (1) The licensee has violated the re-  
4 striction of the license, (2) the licensee has been involved in two or more  
5 accidents chargeable to the licensee or (3) the recommendation of the  
6 chief law enforcement officer of any city or county requiring the rec-  
7 ommendation has been withdrawn. The suspended license shall not be  
8 reinstated for one year or until the licensee reaches the age of 16, which-  
9 ever period is longer.

10 (b) Who is under the age of 18 years, except as provided in K.S.A.  
11 1995 Supp. 8-2,147, and amendments thereto, for the purpose of driving  
12 a commercial or class A or B motor vehicle.

13 (c) Whose license is currently revoked, suspended or canceled in this  
14 or any other state, except as provided in K.S.A. 8-256, and amendments  
15 thereto.

16 (d) Who is a habitual drunkard, habitual user of narcotic drugs or  
17 habitual user of any other drug to a degree which renders the user in-  
18 capable of safely driving a motor vehicle.

19 (e) Who has previously been adjudged to be afflicted with or suffering  
20 from any mental disability or disease and who, at the time of making  
21 application for a driver's license, has not been restored to capacity in the  
22 manner provided by law. Application of this limitation to any person  
23 known to have suffered any seizure disorder is subject to the provisions  
24 of paragraph (7) of subsection (e) of K.S.A. 8-247, and amendments  
25 thereto.

26 (f) Who is required by the motor vehicle drivers' license act to take  
27 an examination, unless the person has successfully passed the examina-  
28 tion.

29 (g) Who is at least 16 years of age and less than 17 years of age, who  
30 is applying for a driver's license for the first time since reaching 16 years  
31 of age and who, three times or more, has been adjudged to be a traffic  
32 offender under the Kansas juvenile code or a juvenile offender under the  
33 Kansas juvenile offenders justice code, by reason of violation of one or  
34 more statutes regulating the movement of traffic on the roads, streets or  
35 highways of this state, except that, in the discretion of the director, the  
36 person may be issued a driver's license which is restricted in the manner  
37 the division deems to be appropriate. No person described by this sub-  
38 section shall be eligible to receive a driver's license which is not restricted  
39 until the person has reached the age of 17 years.

40 ~~(h) Who is under the age of 18 years and is in violation of the com-  
41 pulsory attendance requirements of K.S.A. 72-1111, and amendments  
42 thereto.~~

[KS Assn. Of School Boards suggestion]

43 Sec. 18. On and after July 1, 1997, K.S.A. 10-1208 is hereby

1 (c) Persons charged with aggravated juvenile delinquency, as defined  
2 by this section, shall not be prosecuted pursuant to the Kansas juvenile  
3 offenders justice code but shall be prosecuted under the general criminal  
4 laws of the state.

5 Sec. 23. On and after July 1, 1997, K.S.A. 21-3612 is hereby  
6 amended to read as follows: 21-3612. (a) Contributing to a child's mis-  
7 conduct or deprivation is:

8 (1) Causing or encouraging a child under 18 years of age to become  
9 or remain a child in need of care as defined by the Kansas code for care  
10 of children;

11 (2) causing or encouraging a child under 18 years of age to commit  
12 a traffic infraction or an act which, if committed by an adult, would be a  
13 misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection  
14 (j) of K.S.A. 74-8810 and amendments thereto;

15 (3) failure to reveal, upon inquiry by a uniformed or properly iden-  
16 tified law enforcement officer engaged in the performance of such offi-  
17 cer's duty, any information one has regarding a runaway, with intent to  
18 aid the runaway in avoiding detection or apprehension;

19 (4) sheltering or concealing a runaway with intent to aid the runaway  
20 in avoiding detection or apprehension by law enforcement officers; ~~or~~

21 (5) causing or encouraging a child under 18 years of age to commit  
22 an act which, if committed by an adult, would be a felony. ~~(6)~~

23 (6) ~~causing or encouraging a child to violate the terms or conditions~~  
24 ~~of the child's probation pursuant to subsection (a)(1) of K.S.A. 38-1663,~~  
25 ~~and amendments thereto.~~

[ ; or  
(7) failure to comply with an order of a court requiring  
parents to participate in court ordered services

26 Contributing to a child's misconduct or deprivation as described in  
27 subsection (a)(1), (2) ~~or~~, (3) ~~or~~ (6) is a class A nonperson misdemeanor.

28 Contributing to a child's misconduct or deprivation as described in sub-  
29 section (a)(4) is a severity level 8, person felony. Contributing to a child's  
30 misconduct or deprivation as described in subsection (a)(5) is a severity  
31 level 7, person felony.

or (7)

[SRS suggestion]

32 (b) A person may be found guilty of contributing to a child's miscon-  
33 duct or deprivation even though no prosecution of the child whose mis-  
34 conduct or deprivation the defendant caused or encouraged has been  
35 commenced pursuant to the Kansas code for care of children, Kansas  
36 juvenile offenders justice code or Kansas criminal code.

37 (c) As used in this section, "runaway" means a child under 18 years  
38 of age who is willfully and voluntarily absent from:

39 (1) The child's home without the consent of the child's parent or  
40 other custodian; or

41 (2) a court ordered or designated placement, or a placement pursuant  
42 to court order, if the absence is without the consent of the person with  
43 whom the child is placed or, if the child is placed in a facility, without

the consent of the person in charge of such facility or such person's designee.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 24. On and after July 1, 1997, K.S.A. 21-3826 is hereby amended to read as follows: 21-3826. (a) Traffic in contraband in a correctional institution is introducing or attempting to introduce into or upon the grounds of any correctional institution or taking, sending, attempting to take or attempting to send from any correctional institution or any unauthorized possession while in any correctional institution or distributing within any correctional institution, any item without the consent of the administrator of the correctional institution.

(b) For purposes of this section, "correctional institution" means any state correctional institution or facility, conservation camp, state security hospital, ~~state youth center~~ *juvenile correctional facility*, community correction center or facility for detention or confinement, juvenile detention facility or jail.

(c) Traffic in contraband in a correctional institution is a severity level 6, nonperson felony.

Sec. 25. On and after July 1, 1997, K.S.A. 22-4701 is hereby amended to read as follows: 22-4701. As used in this act, unless the context clearly requires otherwise:

(a) "Central repository" means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A. 38-1618, and amendments thereto.

(b) "Criminal history record information" means data initiated or collected by a criminal justice agency on a person pertaining to a reportable event. The term does not include:

(1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;

(2) juvenile offender information other than data pertaining to a person following waiver of jurisdiction pursuant to the Kansas juvenile code or an authorization for prosecution as an adult pursuant to the Kansas ~~juvenile offenders~~ *juvenile justice* code;

(3) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;

(4) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide; or

(5) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation.

(c) "Criminal justice agency" means any government agency or sub-

or alcoholism treatment action as provided by subsection (c) of K.S.A. 28-170 and amendments thereto. The clerk of the district court, at least monthly, shall pay all such fees received to the county treasurer who shall credit the same to the prosecuting attorneys' training fund.

(b) Expenditures from the prosecuting attorneys' training fund shall be paid by the county treasurer upon the order of the county or district attorney and shall be used exclusively for the training of personnel in such attorney's office and costs related thereto. Annually, on or before March 15, each county and district attorney shall submit to the attorney general and the chairperson of the judiciary committee of each house, an accounting that shows for the preceding year the amount of fees paid into the prosecuting attorneys' training fund, the amounts and purpose of each expenditure from such fund and the balance in such fund on December 31 of the preceding year. The purpose for each expenditure shall specifically identify the person or persons for whom the expenditure was made and, where applicable, the time and place where the training was received. If any expenditure was paid to a nonprofit organization organized in this state of which the county or district attorney is a member, the county or district attorney shall include information on the training received for such expenditure which information shall show the persons receiving the training and the time and place thereof.

Sec. 28. On and after July 1, 1997, K.S.A. 28-172b is hereby amended to read as follows: 28-172b. (a) There is hereby established in the state treasury an indigents' defense services fund.

(b) The clerk of the district court shall charge a fee of \$.50 in each criminal case, to be deducted from the docket fee as provided in K.S.A. 28-172a and amendments thereto and shall charge a fee of \$.50 in each case pursuant to the Kansas code for care of children or the Kansas juvenile offenders justice code and each mental illness, drug abuse or alcoholism treatment action as provided by subsection (d) of K.S.A. 28-170 and amendments thereto. The clerk of the district court, at least monthly, shall pay all such fees received to the state treasurer who shall deposit the entire amount in the state treasury and credit it to the indigents' defense services fund.

(c) Moneys in the indigents' defense services fund shall be used exclusively to provide counsel and related services for indigent defendants. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state board of indigents' defense services or a person designated by the chairperson.

Sec. 29. On and after July 1, 1996, K.S.A. 1995 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context otherwise indicates:

1 (a) "Child in need of care" means a person less than 18 years of age  
2 who:

3 (1) Is without adequate parental care, control or subsistence and the  
4 condition is not due solely to the lack of financial means of the child's  
5 parents or other custodian;

6 (2) is without the care or control necessary for the child's physical,  
7 mental or emotional health;

8 (3) has been physically, mentally or emotionally abused or neglected  
9 or sexually abused;

10 (4) has been placed for care or adoption in violation of law;

11 (5) has been abandoned or does not have a known living parent;

12 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,  
13 and amendments thereto;

14 (7) except in the case of a violation of K.S.A. 41-727 or subsection (j)  
15 of K.S.A. 74-8810 or, except as provided in subsection (a)(12), K.S.A. 21-  
16 4204a and amendments thereto, does an act which, when committed by  
17 a person under 18 years of age, is prohibited by state law, city ordinance  
18 or county resolution but which is not prohibited when done by an adult;

19 (8) while less than 10 years of age, commits any act which if done by  
20 an adult would constitute the commission of a felony or misdemeanor as  
21 defined by K.S.A. 21-3105 and amendments thereto;

22 (9) is willfully and voluntarily absent from the child's home without  
23 the consent of the child's parent or other custodian;

24 (10) is willfully and voluntarily absent at least a second time from a  
25 court ordered or designated placement, or a placement pursuant to court  
26 order, if the absence is without the consent of the person with whom the  
27 child is placed or, if the child is placed in a facility, without the consent  
28 of the person in charge of such facility or such person's designee;

29 (11) has been residing in the same residence with a sibling or another  
30 person under 18 years of age, who has been physically, mentally or emo-  
31 tionally abused or neglected, or sexually abused; or

32 (12) while less than 10 years of age commits the offense defined in  
33 K.S.A. 21-4204a, *and amendments thereto*.

34 (b) "Physical, mental or emotional abuse or neglect" means the in-  
35 fliction of physical, mental or emotional injury or the causing of a dete-  
36 rioration of a child and may include, but shall not be limited to, failing to  
37 maintain reasonable care and treatment, negligent treatment or maltreat-  
38 ment or exploiting a child to the extent that the child's health or emotional  
39 well-being is endangered. A parent legitimately practicing religious beliefs  
40 who does not provide specified medical treatment for a child because of  
41 religious beliefs shall not for that reason be considered a negligent parent;  
42 however, this exception shall not preclude a court from entering an order  
43 pursuant to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

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(c) "Sexual abuse" means any act committed with a child which is described in article 35, chapter 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or 21-3603, and amendments thereto, regardless of the age of the child.

(d) "Parent," when used in relation to a child or children, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the child.

(e) "Interested party" means the state, the petitioner, the child, any parent and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

(f) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for the care of children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(j) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(l) "Ward of the court" means a child over whom the court has acquired jurisdiction by the filing of a petition pursuant to this code and who continues subject to that jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

(m) "Custody," whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of

the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(q) "Court-appointed special advocate" means a responsible adult other than an attorney guardian *ad litem* who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1505a and amendments thereto, in a proceeding pursuant to this code.

(r) "Multidisciplinary team" means a group of persons, appointed by the court or by the state department of social and rehabilitation services under K.S.A. 38-1523a and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(s) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(t) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(u) "*Juvenile intake and assessment worker*" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to section 7.

Sec. 30. On and after July 1, 1996, K.S.A. 38-1506 is hereby amended to read as follows: 38-1506. (a) *Official file*. The official file of proceedings pursuant to this code shall consist of the petition, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. The official file shall be kept separate from other records of the court. The official file shall be privileged and shall not be disclosed directly or indirectly to anyone except:

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(1) A judge of the district court and members of the staff of the court designated by a judge of the district court;

(2) the guardian *ad litem* and the parties to the proceedings and their attorneys;

(3) any individual, or any public or private agency or institution, having custody of the child under court order or providing educational, medical or mental health services to the child or a court-approved advocate for the child or any placement provider or potential placement provider as determined by the secretary or court services officer; and

(4) any other person when authorized by a court order, subject to any conditions imposed by the order.

(b) *Social file*. Reports and information received by the court, other than the official file, shall be privileged and open to inspection only by the guardian *ad litem* or an attorney for an interested party or upon court order. The reports shall not be further disclosed by the guardian *ad litem* or attorney without approval of the court or by being presented as admissible evidence.

(c) *Preservation of records*. The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas code for care of children whenever such records otherwise would be destroyed. No such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 80 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)(4) and (b), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas code for care of children.

Sec. 31. On and after July 1, 1996, K.S.A. 38-1507 is hereby amended to read as follows: 38-1507. ~~(a) All records and reports concerning child abuse or neglect received by the department of social and rehabilitation services or a law enforcement agency in accordance with K.S.A. 38-1522 and amendments thereto are confidential and shall not be disclosed except under the following conditions:~~

~~(1) Upon the order of any court after a determination by the court issuing the order that the records and reports are necessary for the conduct of proceedings before it and are otherwise admissible in evidence, except that access shall be limited to *in camera* inspection unless the court determines that public disclosure of the information contained in the records and reports is necessary for the resolution of an issue then pending before it.~~

~~(2) The secretary or the law enforcement agency where the report is filed shall authorize access to any records or reports concerning child~~

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1 abuse or neglect to any of the following persons upon order of any court  
2 and may authorize access to such persons without a court order if the  
3 child involved is a subject of the record or report:

4 (A) A person licensed to practice the healing arts who has before that  
5 person a child whom the person reasonably suspects may be abused or  
6 neglected;

7 (B) a court-appointed special advocate for a child, which advocate  
8 reports to the court, or an agency having the legal responsibility or au-  
9 thorization to care for, treat or supervise a child;

10 (C) a parent or other person responsible for the welfare of a child,  
11 or such person's legal representative, with protection for the identity of  
12 reporters and other appropriate persons;

13 (D) the child or the guardian *ad litem* for such child;

14 (E) a police or other law enforcement agency;

15 (F) an agency charged with the responsibility of preventing or treat-  
16 ing physical, mental or emotional abuse or neglect or sexual abuse of  
17 children, if the agency requesting the information has standards of con-  
18 fidentiality as strict or stricter than the requirements of this code;

19 (G) a person who is a member of a multidisciplinary team;

20 (H) an agency authorized by a properly constituted authority to di-  
21 agnose, care for, treat or supervise a child who is the subject of a report  
22 or record of child abuse or neglect;

23 (I) any individual, or public or private agency authorized by a properly  
24 constituted authority to diagnose, care for, treat or supervise a child who  
25 is the subject of a report or record of child abuse or neglect and specifi-  
26 cally includes the following: Physicians, psychiatrists, nurse, nurse prac-  
27 titioners, psychologists, licensed social workers, child development spe-  
28 cialists, physician assistants, community mental health workers, alcohol  
29 and drug abuse counselors, and licensed or registered child care provid-  
30 ers. Teachers, administrators and school paraprofessionals shall have ac-  
31 cess but shall not copy materials in the file; or

32 (J) any member of the standing house or senate committee on judi-  
33 ciary, house committee on appropriations, senate committee on ways and  
34 means, legislative post audit committee and joint committee on children's  
35 initiatives ~~children and families~~, carrying out such member's or commit-  
36 tee's official functions. Such records and reports shall only be disclosed  
37 to such legislative committee, in accordance with K.S.A. 75-4319 and  
38 amendments thereto, in a closed or executive meeting. Except in limited  
39 conditions established by 2/3 of the members of such committee, records  
40 and reports received by the committee shall not be further disclosed.  
41 Unauthorized disclosure may subject such member to discipline or cen-  
42 sure from the house of representatives or senate;

43 (K) the state child death review board established under K.S.A. 22a-

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~~243, and amendments thereto; or~~

~~(L) any juvenile intake and assessment worker.~~

~~(b) No individual, association, partnership, corporation or other entity shall willfully or knowingly permit or encourage the unauthorized dissemination of the contents of records or reports concerning child abuse or neglect received by the department of social and rehabilitation services or a law enforcement agency in accordance with K.S.A. 38-1522 and amendments thereto except as provided by this code. Violation of this subsection is a class B misdemeanor.~~

~~(c) Records or reports given to persons described in subsection (a)(2)(G) or (a)(2)(K) shall not be further disclosed to persons who are not members of the multidisciplinary team or state child death review board without prior approval of the court.~~

Insert attached section.

[SRS suggestion]

~~Sec. 32. On and after July 1, 1996, K.S.A. 38-1507b is hereby amended to read as follows: 38-1507b. Any licensed social worker sharing information under the provisions of this act code shall not be subject to review under any rules or regulations adopted by the behavioral sciences regulatory board. Such records and reports shall only be disclosed to such legislative committee, in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.~~

~~Sec. 33. On and after July 1, 1996, K.S.A. 38-1508 is hereby amended to read as follows: 38-1508. All records and reports concerning child abuse or neglect received by law enforcement agencies shall be kept separate from all other records and shall not be disclosed to anyone except:~~

~~(a) The judge and members of the court staff designated by the judge of the court having the child before it in any proceedings;~~

~~(b) the guardian ad litem and the parties to the proceedings and their attorneys, subject to the restrictions imposed by subsection (a)(2)(C) of K.S.A. 38-1507 and amendments thereto;~~

~~(c) the department of social and rehabilitation services;~~

~~(d) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect and specifically includes the following: Physicians, psychiatrists, nurse, nurse practitioners, psychologists, licensed social workers, child development specialists, physician assistants, community mental health workers, alcohol and drug abuse counselors, and licensed or registered child care providers. Teachers, administrators and school paraprofessionals shall have~~

(a) In order to protect the privacy of children who are the subject of a child in need of care record or report, all records and reports concerning children in need of care, including the juvenile intake and assessment report, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall be kept confidential except to those persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) When a report is received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker which indicates a child may be in need of care, the following persons and entities shall have a free exchange of information between and among them:

- (1) The department of social and rehabilitation services;
- (2) the commissioner of juvenile justice;
- (3) the law enforcement agency receiving such report;
- (4) members of a court appointed multidisciplinary team;
- (5) an entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (6) a military enclave or Indian tribal organization authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (7) a county or district attorney;
- (8) a court services officer who has taken a child into custody pursuant to K.S.A. 38-1527, and amendments thereto;
- (9) a guardian *ad litem* appointed for a child alleged to be in need of care;
- (10) an intake and assessment worker; and
- (11) any educational institution, unless pursuant to court order, the court determines it is not in the best interest of the child to have an exchange of information with such educational institution.

(c) The following persons or entities shall have access to information, records or reports received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker. Access shall be limited to information necessary to carry out their lawful responsibilities or to diagnosis, treat, care for or protect a child alleged to be in need of care.

- (1) A child named in the report or records.
- (2) A parent or other person responsible for the welfare of a child, or such person's legal representative.
- (3) A court-appointed special advocate for a child, a citizen review board or other advocate which reports to the court;
- (4) A person licensed to practice the healing arts or mental health professional in order to diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably suspects may be in need of care; (B) a member of the child's family; or (C) a person who allegedly abused or neglected the child;
- (5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary of social and rehabilitation services to care for, treat or supervise a child in need of care. In order to assist a child placed for care by the secretary of social and rehabilitation services in a foster home or child care facility, the secretary shall provide relevant information to the foster parents or child care facility prior to placement and as such information becomes available to the secretary.
- (6) Parties to a court proceeding in which the information in the records is legally relevant and necessary for determination of an issue before such court, provided that prior such disclosure the judge has reviewed the records *in camera*, has determined the relevancy and necessity of such disclosure, and has limited disclosure to such legally relevant information under an appropriate order.
- (7) A coroner or medical examiner when such person is determining the cause of death of a child.
- (8) The state child death review board established under K.S.A. 22a-243, and amendments thereto.
- (9) A prospective adoptive parent prior to placing a child in their care.
- (10) The department of health and environment for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas statutes annotated, and amendments thereto.
- (11) The state protection and advocacy agency as provided by subsection (a)(10) of K.S.A. 65-5603 or subsections (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments thereto.

(d) Information from a record or report of a child in need of care shall be available to members of the standing house or senate committee on judi-

ciary, house committee on appropriations, senate committee on ways and means, legislative post audit committee and joint committee on children children and families, carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(e) Nothing in this section shall be interpreted to prohibit the secretary of social and rehabilitation services from summarizing the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(f) Disclosure of information from reports or records of a child in need of care to the public shall be limited to conformation of factual details with respect to how the case was handled that do not violate the privacy of the child, if living, or the child's siblings, parents or guardians. Further, confidential information may be released to the public only with the express written permission of the individuals involved or their representatives or upon order of the court having jurisdiction upon a finding by the court that public disclosure of information in the records or reports is necessary for the resolution of an issue before the court.

(g) Information authorized to be disclosed in subsections (c) through (f) shall not contain information which identifies a reporter of a child in need of care.

(h) Records or reports authorized to be disclosed in this section shall not be further disclosed.

(i) Anyone who participates in providing or receiving information without malice under the provisions of this section shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(j) No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or encourage disclosure of the contents of records or reports concerning a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or a juvenile intake and assessment worker except as provided by this code. Violation of this subsection is a class B misdemeanor.

[SRS suggestion]

1 access but shall not copy materials in the file;

2 (e) law enforcement officers or county or district attorneys or their  
3 staff when necessary for the discharge of their official duties in investi-  
4 gating or prosecuting a report of known or suspected child abuse or ne-  
5 glect; and

6 (f) any member of the standing house or senate committee on judi-  
7 ciary, house committee on appropriations, senate committee on ways and  
8 means, legislative post audit committee and joint committee on ~~children's~~  
9 ~~initiatives children and families~~, carrying out such member's or commit-  
10 tee's official functions; and

11 (g) any juvenile intake and assessment worker.

12 Sec. 34. On and after July 1, 1996, K.S.A. 38-1522 is hereby  
13 amended to read as follows: 38-1522. (a) When any of the following per-  
14 sons has reason to suspect that a child has been injured as a result of  
15 physical, mental or emotional abuse or neglect or sexual abuse, the person  
16 shall report the matter promptly as provided in subsection (c) or (e):  
17 Persons licensed to practice the healing arts or dentistry; persons licensed  
18 to practice optometry; persons engaged in postgraduate training programs  
19 approved by the state board of healing arts; licensed psychologists; li-  
20 censed professional or practical nurses examining, attending or treating a  
21 child under the age of 18; teachers, school administrators or other em-  
22 ployees of a school which the child is attending; chief administrative of-  
23 ficers of medical care facilities; registered marriage and family therapists;  
24 persons licensed by the secretary of health and environment to provide  
25 child care services or the employees of persons so licensed at the place  
26 where the child care services are being provided to the child; licensed  
27 social workers; firefighters; emergency medical services personnel; me-  
28 diators appointed under K.S.A. 23-602 and amendments thereto; *juvenile*  
29 *intake and assessment workers*; and law enforcement officers. The report  
30 may be made orally and shall be followed by a written report if requested.  
31 When the suspicion is the result of medical examination or treatment of  
32 a child by a member of the staff of a medical care facility or similar  
33 institution, that staff member shall immediately notify the superinten-  
34 dent, manager or other person in charge of the institution who shall make  
35 a written report forthwith. Every written report shall contain, if known,  
36 the names and addresses of the child and the child's parents or other  
37 persons responsible for the child's care, the child's age, the nature and  
38 extent of the child's injury (including any evidence of previous injuries)  
39 and any other information that the maker of the report believes might be  
40 helpful in establishing the cause of the injuries and the identity of the  
41 persons responsible for the injuries.

42 (b) Any other person who has reason to suspect that a child has been  
43 injured as a result of physical, mental or emotional abuse or neglect or

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1 sexual abuse may report the matter as provided in subsection (c) or (e).

2 (c) Except as provided by subsection (e), reports made pursuant to  
3 this section shall be made to the state department of social and rehabil-  
4 itation services. When the department is not open for business, the re-  
5 ports shall be made to the appropriate law enforcement agency. On the  
6 next day that the state department of social and rehabilitation services is  
7 open for business, the law enforcement agency shall report to the de-  
8 partment any report received and any investigation initiated pursuant to  
9 subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports  
10 may be made orally or, on request of the department, in writing.

11 (d) Any person who is required by this section to report an injury to  
12 a child and who knows of the death of a child shall notify immediately  
13 the coroner as provided by K.S.A. 22a-242, *and amendments thereto*.

14 (e) Reports of child abuse or neglect occurring in an institution op-  
15 erated by the secretary shall be made to the attorney general. All other  
16 reports of child abuse or neglect by persons employed by or of children  
17 of persons employed by the state department of social and rehabilitation  
18 services shall be made to the appropriate law enforcement agency.

19 (f) Willful and knowing failure to make a report required by this sec-  
20 tion is a class B misdemeanor.

21 (g) Preventing or interfering with, with the intent to prevent, the  
22 making of a report required by this section is a class B misdemeanor.

23 Sec. 35. On and after July 1, 1996, K.S.A. 1995 Supp. 38-1528 is  
24 hereby amended to read as follows: 38-1528. (a) To the extent possible,  
25 when any law enforcement officer takes into custody a child under the  
26 age of 18 years, without a court order, the child shall forthwith be deliv-  
27 ered to the custody of the child's parent or other custodian unless there  
28 are reasonable grounds to believe that such action would not be in the  
29 best interests of the child. Except as provided in subsection (b), if the  
30 child is not delivered to the custody of the child's parent or other custo-  
31 dian, the child shall forthwith be delivered to a facility or person desig-  
32 nated by the secretary or to a court designated shelter facility, court serv-  
33 ices officer, *juvenile intake and assessment worker, licensed attendant*  
34 *care center* or other person. If, after delivery of the child to a shelter  
35 facility, the person in charge of the shelter facility at that time and the  
36 law enforcement officer determine that the child will not remain in the  
37 shelter facility, the law enforcement officer shall deliver the child to a  
38 juvenile detention facility or other secure facility, designated by the court,  
39 where the child shall be detained for not more than 24 hours, excluding  
40 Saturdays, Sundays and legal holidays. It shall be the duty of the law  
41 enforcement officer to furnish to the county or district attorney, without  
42 unnecessary delay, all the information in the possession of the officer  
43 pertaining to the child, the child's parents or other persons interested in

1 or likely to be interested in the child and all other facts and circumstances  
2 which caused the child to be taken into custody.

3 (b) When any law enforcement officer takes into custody any child as  
4 provided in subsection (c) of K.S.A. 38-1527 and amendments thereto,  
5 proceedings shall be initiated in accordance with the provisions of the  
6 interstate compact on juveniles, K.S.A. 38-1001 *et seq.* and amendments  
7 thereto. Any child taken into custody pursuant to the interstate compact  
8 on juveniles may be detained in a juvenile detention facility or other  
9 secure facility.

10 (c) Whenever a child under the age of 18 years is taken into custody  
11 by a law enforcement officer without a court order and is thereafter  
12 placed in the custody of a shelter facility, court services officer, *juvenile*  
13 *intake and assessment worker, licensed attendant care center* or other  
14 person as authorized by this code, the facility or person shall have physical  
15 custody and provide care and supervision for the child upon written ap-  
16 plication of the law enforcement officer. The application shall state:

17 (1) The name and address of the child, if known;

18 (2) the names and addresses of the child's parents or nearest relatives  
19 and persons with whom the child has been residing, if known; and

20 (3) the officer's belief that the child is a child in need of care and that  
21 there are reasonable grounds to believe that the circumstances or condi-  
22 tion of the child is such that, unless the child is placed in the immediate  
23 custody of the shelter facility or other person, it would be harmful to the  
24 child.

25 (d) A copy of the application shall be furnished by the facility or  
26 person receiving the child to the county or district attorney without un-  
27 necessary delay.

28 (e) The shelter facility or other person designated by the court who  
29 has custody of the child pursuant to this section shall discharge the child  
30 not later than 48 hours following admission, excluding Saturdays, Sundays  
31 and legal holidays, unless a court has entered an order pertaining to tem-  
32 porary custody or release.

33 (f) In absence of a court order to the contrary, the county or district  
34 attorney or the placing law enforcement agency shall have the authority  
35 to direct at any time the release of the child.

36 (g) When any law enforcement officer takes into custody any child as  
37 provided in subsection (d) of K.S.A. 38-1527, and amendments thereto,  
38 the child shall forthwith be delivered to the school in which the child is  
39 enrolled, any location designated by the school in which the child is en-  
rolled to address truancy issues or the child's parent or other custodian.

42 Sec. 36. On and after July 1, 1996, K.S.A. 38-1562 is hereby  
43 amended to read as follows: 38-1562. (a) At any time after a child has  
been adjudicated to be a child in need of care and prior to disposition,

the judge shall permit any interested parties, and any persons required to be notified pursuant to subsection (b), to be heard as to proposals for appropriate disposition of the case.

(b) Before entering an order placing the child in the custody of a person other than the child's parent, the court shall require notice of the time and place of the hearing to be given to all the child's grandparents at their last known addresses or, if no grandparent is living or if no living grandparent's address is known, to the closest relative of each of the child's parents whose address is known. Such notice shall be given by restricted mail not less than 10 business days before the hearing and shall state that the person receiving the notice shall have an opportunity to be heard at the hearing. The provisions of this subsection shall not require additional notice to any person otherwise receiving notice of the hearing pursuant to K.S.A. 38-1536 and amendments thereto.

(c) Prior to entering an order of disposition, the court shall give consideration to the child's physical, mental and emotional condition; the child's need for assistance; the manner in which the parent participated in the abuse, neglect or abandonment of the child; any relevant information from the intake and assessment process; and the evidence received at the dispositional hearing.

Sec. 37. On and after July 1, 1997, K.S.A. 38-1569 is hereby amended to read as follows: 38-1569. The report made by foster parents and provided by the department of social and rehabilitation services [or the commissioner of juvenile justice], pursuant to K.S.A. 38-1565 [and 38-1664], and amendments thereto, shall be in substantially the following form:

[SRS suggestion]

REPORT FROM FOSTER PARENTS

CONFIDENTIAL

Child's Name	Current Address
Parent's Name	Foster Parents

Primary Social Worker

Please circle the word which best describes the child's progress

- Child's adjustment in the home  
excellent   good   satisfactory   needs improvement
- Child's interaction with foster parents and family members  
excellent   good   satisfactory   needs improvement
- Child's interaction with others  
excellent   good   satisfactory   needs improvement
- Child's respect for property  
excellent   good   satisfactory   needs improvement

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5. Physical and emotional condition of the child

excellent good satisfactory needs improvement

6. Social worker's interaction with the child and foster family

excellent good satisfactory needs improvement

7. School status of child:

School		Grade		
Grades	Good _____	Fair _____	Poor _____	
Attendance	Good _____	Fair _____	Poor _____	
Behavior	Good _____	Fair _____	Poor _____	

8. If visitation with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Your opinion regarding the overall adjustment, progress and condition of the child:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. Do you have any special concerns or comments with regard to the child not addressed by this form? Please specify.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

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\_\_\_\_\_

Sec. 38. On and after July 1, 1996, K.S.A. 1995 Supp. 38-1602 is hereby amended to read as follows: 38-1602. As used in this code, unless the context otherwise requires:

(a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 21-4204a or K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117 and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated;

(3) a person 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in a separate prior juvenile proceeding as having committed an act which would constitute a felony if committed by an adult

and the adjudications occurred prior to the date of the commission of the new act charged;

(4) a person who has been prosecuted as an adult by reason of subsection (b)(3) and whose prosecution results in conviction of a crime;

(5) a person whose prosecution as an adult is authorized pursuant to K.S.A. 38-1636 and amendments thereto;

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; or

(7) a person 16 years of age or over who has been adjudicated to be a juvenile offender under the Kansas juvenile offender's code and who is charged with committing a felony or more than one offense of which one or more is a felony while confined in any training or rehabilitation facility under the jurisdiction and control of the department of social and rehabilitation services or while running away or escaping from any such institution or facility.

(c) "Parent," when used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) "Youth residential facility" means any home, foster home or structure which provides twenty-four-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which must not be a jail.

(g) "State youth center" means a facility operated by the secretary for juvenile offenders.

(h) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(i) "Secretary" means the secretary of social and rehabilitation services.

(j) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all

juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(k) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 38-1606 and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in ~~section 16 of 1994 Senate Bill No. 657~~ K.S.A. 1995 Supp. 38-1606a, and amendments thereto, in a proceeding pursuant to this code.

(l) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to section 7.

Sec. 39. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1602, as amended by section 38 of this bill, is hereby amended to read as follows: 38-1602. As used in this code, unless the context otherwise requires:

(a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 21-4204a or K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117 and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated; *or*

(3) a person 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in a separate prior juvenile proceeding as having committed an act which would constitute a felony if committed by an adult and the adjudications occurred prior to the date of the commission of the new act charged;

(4) a person who has been prosecuted as an adult by reason of subsection (b)(3) and whose prosecution results in conviction of a crime;

(5) a person whose prosecution as an adult is authorized pursuant to K.S.A. 38-1636 and amendments thereto;

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; *or*

(7) a person 16 years of age or over who has been adjudicated to be a juvenile offender under the Kansas juvenile offender's code and who is

1 charged with committing a felony or more than one offense of which one  
2 or more is a felony while confined in any training or rehabilitation facility  
3 under the jurisdiction and control of the department of social and reha-  
4 bilitation services or while running away or escaping from any such in-  
5 stitution or facility.

6 (c) "Parent," when used in relation to a juvenile or a juvenile of-  
7 fender, includes a guardian, conservator and every person who is by law  
8 liable to maintain, care for or support the juvenile.

9 (d) "Law enforcement officer" means any person who by virtue of  
10 that person's office or public employment is vested by law with a duty to  
11 maintain public order or to make arrests for crimes, whether that duty  
12 extends to all crimes or is limited to specific crimes.

13 (e) "Youth residential facility" means any home, foster home or struc-  
14 ture which provides twenty-four-hour-a-day care for juveniles and which  
15 is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes  
16 Annotated.

17 (f) "Juvenile detention facility" means any secure public or private  
18 facility which is used for the lawful custody of accused or adjudicated  
19 juvenile offenders and which must not be a jail.

20 (g) ~~"State youth center"~~ "Juvenile correctional facility" means a fa-  
21 cility operated by the ~~secretary~~ commissioner for juvenile offenders.

22 (h) "Warrant" means a written order by a judge of the court directed  
23 to any law enforcement officer commanding the officer to take into cus-  
24 tody the juvenile named or described therein.

25 (i) ~~"Secretary" means the secretary of social and rehabilitation serv-~~  
26 ~~ices. "Commissioner" means the commissioner of juvenile justice.~~

27 (j) "Jail" means:

28 (1) An adult jail or lockup; or

29 (2) a facility in the same building as an adult jail or lockup, unless the  
30 facility meets all applicable licensure requirements under law and there  
31 is (A) total separation of the juvenile and adult facility spatial areas such  
32 that there could be no haphazard or accidental contact between juvenile  
33 and adult residents in the respective facilities; (B) total separation in all  
34 juvenile and adult program activities within the facilities, including rec-  
35 reation, education, counseling, health care, dining, sleeping, and general  
36 living activities; and (C) separate juvenile and adult staff, including man-  
37 agement, security staff and direct care staff such as recreational, educa-  
38 tional and counseling.

39 (k) "Court-appointed special advocate" means a responsible adult,  
40 other than an attorney appointed pursuant to K.S.A. 38-1606 and amend-  
41 ments thereto, who is appointed by the court to represent the best inter-  
ests of a child, as provided in K.S.A. 1995 Supp. 38-1606a, and amend-  
ments thereto, in a proceeding pursuant to this code.

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1 (l) "Juvenile intake and assessment worker" means a responsible  
2 adult authorized to perform intake and assessment services as part of the  
3 intake and assessment system established pursuant to section 5.

4 (m) "Institution" means the following institutions: The juvenile cor-  
5 rectional facility at Atchison, the juvenile correctional facility at Beloit,  
6 the juvenile correctional facility at Larned, the juvenile correctional fa-  
7 cility at Osawatomie and the juvenile correctional facility at Topeka.

8 Sec. 40. On and after July 1, 1997, K.S.A. 38-1604 is hereby  
9 amended to read as follows: 38-1604. (a) Except as provided in K.S.A.  
10 38-1636 and 21-3611 and amendments thereto, proceedings concerning  
11 a juvenile who appears to be a juvenile offender shall be governed by the  
12 provisions of this code.

13 (b) The district court shall have original jurisdiction to receive and  
14 determine proceedings under this code.

15 (c) When jurisdiction is acquired by the district court over an alleged  
16 juvenile offender it may continue until the juvenile (1) has attained the  
17 age of ~~21~~ 23 years, unless an adult sentence is imposed pursuant to an  
18 extended jurisdiction juvenile prosecution. If such adult sentence is im-  
19 posed, jurisdiction shall continue until discharged by the court or other  
20 process for the adult sentence; (2) has been discharged by the court; or  
21 (3) has been discharged under the provisions of K.S.A. 38-1675, and  
22 amendments thereto.

23 (d) ~~Unless the court finds that substantial injustice would result,~~ the  
24 provisions of this code shall govern with respect to acts done ~~prior to the~~  
25 effective date of this code and with respect to juveniles alleged or adju-  
26 dicated to have done the acts, to the same extent as if the acts had been  
27 done on or after the effective date and the juveniles had been alleged or  
28 adjudicated to be juvenile offenders.

on or after July 1, 1997

29 Sec. 41. On and after July 1, 1997, K.S.A. 38-1605 is hereby  
30 amended to read as follows: 38-1605. (a) Venue for ~~adjudicatory~~ pro-  
31 ceedings in any case involving an alleged juvenile offender shall be in any  
32 county where any act of the alleged offense was committed.

[KS Sentencing Commission suggestion]

33 (b) Except as provided in subsection (c), venue for ~~dispositional sen-~~  
34 ~~tencing~~ proceedings in any case involving a juvenile alleged to be a ju-  
35 venile offender shall be in the county of the juvenile's residence or, if the  
36 juvenile is not a resident of this state, in the county where the alleged  
37 offense was committed. When the ~~dispositional sentencing~~ hearing is to  
38 be held in a county other than the county where the alleged offense was  
39 committed, the ~~adjudicating trial~~ judge shall transmit the record of the  
40 ~~adjudicatory hearing trial~~, and recommendations as to ~~disposition sen-~~  
41 ~~tencing~~, to the court where the ~~dispositional sentencing~~ hearing is to be  
42 held.

43 (c) If the ~~adjudicatory hearing trial~~ is held in a county other than the



county of the juvenile's residence, the ~~dispositional sentencing~~ hearing  
2 may be held in the county in which the ~~adjudicatory hearing trial~~ is held  
3 if the ~~adjudicating trial~~ judge, upon motion by the complainant or any  
4 person authorized to appeal, finds that it is in the best interests of the  
5 juvenile offender and the community that the ~~dispositional sentencing~~  
6 hearing be held in the county where the act was committed.

7 Sec. 42. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1606a is  
8 hereby amended to read as follows: 38-1606a. (a) In addition to the at-  
9 torney appointed pursuant to K.S.A. 38-1606 and amendments thereto,  
10 the court at any stage of a proceeding pursuant to this code may appoint  
11 a volunteer court-appointed special advocate for the child who shall serve  
12 until discharged by the court and whose primary duties shall be to ad-  
13 vocate the best interests of the child and assist the child in obtaining a  
14 permanent, safe and homelike placement. The court-appointed special  
15 advocate shall have such qualifications and perform such specific duties  
16 and responsibilities as prescribed by rule of the supreme court.

17 (b) Any person participating in a judicial proceeding as a court-ap-  
18 pointed special advocate shall be presumed prima facie to be acting in  
19 good faith and in so doing shall be immune from any civil liability that  
20 otherwise might be incurred or imposed.

21 (c) The supreme court shall promulgate rules governing court-ap-  
22 pointed special advocate programs related to proceedings pursuant to this  
23 code in the district courts.

24 (d) This section shall be a part of and supplemental to the Kansas  
25 juvenile ~~offenders justice~~ code.

26 Sec. 43. On and after July 1, 1996, K.S.A. 1995 Supp. 38-1607 is  
27 hereby amended to read as follows: 38-1607. (a) *Official file*. The official  
28 file of proceedings pursuant to this code shall consist of the complaint,  
29 process, service of process, orders, writs and journal entries reflecting  
30 hearings held and judgments and decrees entered by the court. The of-  
31 ficial file shall be kept separate from other records of the court.

32 (b) The official file shall be open for public inspection as to any ju-  
33 venile 14 or more years of age at the time any act is alleged to have been  
34 committed. Information identifying victims and alleged victims of sex of-  
35 fenses, as defined in K.S.A. chapter 21, article 35, shall not be disclosed  
36 or open to public inspection under any circumstances. Nothing in this  
37 section shall prohibit the victim or alleged victim of any sex offense from  
38 voluntarily disclosing their identity. The official file and information iden-  
39 tifying the victim or alleged victim of any sex offense shall be privileged  
40 as to any other juvenile and shall not be disclosed directly or indirectly  
1 to anyone except:

2 (1) A judge of the district court and members of the staff of the court  
3 designated by the judge;

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(2) parties to the proceedings and their attorneys;

(3) any individual, or any public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile *or any placement provider or potential placement provider as determined by the secretary or court services officer*;

(4) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties;

(5) the Kansas racing commission, upon written request of the commission chairperson, for the purpose provided by K.S.A. 74-8804, and amendments thereto; ~~and~~

(6) *the juvenile intake and assessment workers*; and

(7) any other person when authorized by a court order, subject to any conditions imposed by the order.

(c) *Social file*. Reports and information received by the court other than the official file shall be privileged and open to inspection only by attorneys for the parties, *juvenile intake and assessment worker* or upon order of a judge of the district court or an appellate court. The reports shall not be further disclosed by the attorney without approval of the court or by being presented as admissible evidence.

(d) *Preservation of records*. The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas juvenile offenders code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 16 or more years of age at the time an offense is alleged to have been committed by the juvenile. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 80 years after creation of the records, except as provided in subsections ~~(a)~~ and (b) and (c). Pursuant to subsections ~~(a)(6)~~ (b)(7) and ~~(b)~~ (c), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas juvenile offenders code.

(e) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

Sec. 44. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1607, as amended by section 43 of this bill, is hereby amended to read as follows: 38-1607. (a) *Official file*. The official file of proceedings pursuant to this code shall consist of the complaint, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and de-

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1 crees entered by the court. The official file shall be kept separate from  
2 other records of the court.

3 (b) The official file shall be open for public inspection as to any ju-  
4 venile 14 or more years of age at the time any act is alleged to have been  
5 committed ~~except if the judge determines that opening the official file for~~  
6 ~~public inspection is not in the best interest of the juvenile.~~ Information  
7 identifying victims and alleged victims of sex offenses, as defined in K.S.A.  
8 chapter 21, article 35, shall not be disclosed or open to public inspection  
9 under any circumstances. Nothing in this section shall prohibit the victim  
10 or alleged victim of any sex offense from voluntarily disclosing their iden-  
11 tity. ~~The official file and information identifying the victim or alleged~~  
12 ~~victim of any sex offense shall be privileged as to any other juvenile and~~  
13 ~~shall not be disclosed directly or indirectly to anyone except: If the judge~~  
14 ~~determines that a juvenile file shall not be open for public inspection, the~~  
15 ~~official file and information identifying the victim or alleged victim of any~~  
16 ~~sex offense shall be disclosed only to the following parties:~~

as to any juvenile 14 or more years of age at the time any act is alleged to  
have been committed or as to any juvenile less than 14 years of age at the  
time any act is alleged to have been committed  
such  
who is less than 14 years of age

17 (1) A judge of the district court and members of the staff of the court  
18 designated by the judge;

, for a juvenile who is less than 14 years of age,

[House Judiciary Committee discussion, 3-15-96]

19 (2) parties to the proceedings and their attorneys;

20 (3) any individual, or any public or private agency or institution, hav-  
21 ing custody of the juvenile under court order or providing educational,  
22 medical or mental health services to the juvenile or a court-approved  
23 advocate for the juvenile or any placement provider or potential place-  
24 ment provider as determined by the ~~secretary~~ commissioner or court serv-  
25 ices officer;

26 (4) law enforcement officers or county or district attorneys or their  
27 staff when necessary for the discharge of their official duties;

28 (5) the Kansas racing commission, upon written request of the com-  
29 mission chairperson, for the purpose provided by K.S.A. 74-8804, and  
30 amendments thereto;

31 (6) the juvenile intake and assessment workers; and

32 (7) the commissioner of juvenile justice; and

33 ~~(7)~~ (8) any other person when authorized by a court order, subject to  
34 any conditions imposed by the order.

35 (c) *Social file.* Reports and information received by the court other  
36 than the official file shall be privileged and open to inspection only by  
37 attorneys for the parties, juvenile intake and assessment workers or upon  
38 order of a judge of the district court or an appellate court. The reports  
39 shall not be further disclosed by the attorney without approval of the  
court or by being presented as admissible evidence.

40 (d) *Preservation of records.* The Kansas state historical society shall  
41 be allowed to take possession for preservation in the state archives of any  
42 court records related to proceedings under the Kansas juvenile offenders  
43

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1 justice code whenever such records otherwise would be destroyed. The  
 2 Kansas state historical society shall make available for public inspection  
 3 any unexpunged docket entry or official file in its custody concerning any  
 4 juvenile 16 or more years of age at the time an offense is alleged to have  
 5 been committed by the juvenile. No other such records in the custody of  
 6 the Kansas state historical society shall be disclosed directly or indirectly  
 7 to anyone for 80 years after creation of the records, except as provided  
 8 in subsections (b) and (c). Pursuant to subsections (b)(7) and (c), a judge  
 9 of the district court may allow inspection for research purposes of any  
 10 court records in the custody of the Kansas state historical society related  
 11 to proceedings under the Kansas juvenile offenders justice code.

12 (e) Relevant information, reports and records shall be made available  
 13 to the department of corrections upon request and a showing that the  
 14 former juvenile has been convicted of a crime and placed in the custody  
 15 of the secretary of the department of corrections.

16 Sec. 45. On and after July 1, ~~1997~~ K.S.A. 1995 Supp. 38-1608 is  
 17 hereby amended to read as follows: 38-1608. (a) All records of law en- 1996  
 18 forcement officers and agencies and municipal courts concerning a public  
 19 offense committed or alleged to have been committed by a juvenile under  
 20 16 years of age shall be kept readily distinguishable from criminal and  
 21 other records and shall not be disclosed to anyone except:

- 22 (1) The judge and members of the court staff designated by the judge
- 23 of a court having the juvenile before it in any proceedings;
- 24 (2) parties to the proceedings and their attorneys;
- 25 (3) the department of social and rehabilitation services;
- 26 (4) any individual, or any officer of a public or private agency or in-
- 27 stitution, having custody of the juvenile under court order or providing
- 28 educational, medical or mental health services to the juvenile or a court-
- 29 approved advocate for the juvenile;
- 30 (5) law enforcement officers or county or district attorneys or their
- 31 staff when necessary for the discharge of their official duties;
- 32 (6) the central repository, as defined by K.S.A. 22-4701 and amend-
- 33 ments thereto, for use only as a part of the juvenile offender information
- 34 system established under K.S.A. 38-1618 and amendments thereto;
- 35 ~~(7) the juvenile justice authority;~~
- 36 ~~(8) juvenile intake and assessment workers;~~ (7)
- 37 ~~(7) (9) any other person when authorized by a court order, subject to~~ (8)
- 38 any conditions imposed by the order; and
- 39 ~~(8) (10) as provided in subsection (c).~~ (9)

(b) The provisions of this section shall not apply to records concern-

- 42 (1) A violation, by a person 14 or more years of age, of any provision
- 43 of chapter 8 of the Kansas Statutes Annotated or of any city ordinance or

[OJA, Juvenile Intake Specialist suggestion]

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1 county resolution which relates to the regulation of traffic on the roads,  
2 highways or streets or the operation of self-propelled or nonself-propelled  
3 vehicles of any kind;

4 (2) a violation, by a person 16 or more years of age, of any provision  
5 of chapter 32 of the Kansas Statutes Annotated; or

6 (3) an offense for which the juvenile is prosecuted as an adult.

7 (c) All records of law enforcement officers and agencies and munic-  
8 ipal courts concerning a public offense committed or alleged to have been  
9 committed by a juvenile 14 or more years of age shall be subject to the  
10 same disclosure restrictions as the records of adults. Information identi-  
11 fying victims and alleged victims of sex offenses, as defined in K.S.A.  
12 chapter 21, article 35, shall not be disclosed or open to public inspection  
13 under any circumstances. Nothing in this section shall prohibit the victim  
14 or any alleged victim of any sex offense from voluntarily disclosing their  
15 identity.

16 (d) Relevant information, reports and records shall be made available  
17 to the department of corrections upon request and a showing that the  
18 former juvenile has been convicted of a crime and placed in the custody  
19 of the secretary of the department of corrections.

20 Sec. 46. On and after July 1, 1997, K.S.A. 38-1609 is hereby  
21 amended to read as follows: 38-1609. (a) The diagnostic, treatment or  
22 medical records of any juvenile offender shall be privileged and shall not  
23 be disclosed except:

Insert the following subsection and section.

24 (1) Upon the written consent of the former juvenile or, if the juvenile  
25 offender is under 18 years of age, by the parent of the juvenile;

26 (2) upon a determination by the head of the treatment facility, who  
27 has the records, that disclosure is necessary for the further treatment of  
28 the juvenile offender;

29 (3) when any court having jurisdiction of the juvenile offender orders  
30 disclosure;

31 (4) when authorized by K.S.A. 38-1614 and amendments thereto; ~~or~~

32 (5) when requested orally or in writing by any attorney representing  
33 the juvenile offender, but the records shall not be further disclosed by  
34 the attorney unless approved by the court or presented as admissible  
35 evidence; *or*

36 (6) *upon a written request of a juvenile intake and assessment worker*  
37 *in regard to an alleged juvenile offender when the information is needed*  
38 *for screening and assessment purposes or placement decisions*

, but the records shall not be further disclosed by the worker  
unless approved by the court

39 (b) Willful violation of this section is a class C misdemeanor.

40 (c) Nothing in this section shall operate to extinguish any right of a  
juvenile offender established by attorney-client, physician-patient, psy-  
41 chologist-client or social worker-client privileges.

[OJA, Juvenile Intake Specialist suggestion]

43 (d) Relevant information, reports and records shall be made available

(e) All records, reports and information obtained as a part of the juvenile intake and assessment process for juvenile offenders shall be confidential and shall not be disclosed except as provided in this section or by supreme court administrative orders.

(1) Any court of record may order the disclosure of such records, reports and other information to any person or entity.

(2) The head of any juvenile intake and assessment program, certified pursuant to supreme court administrative orders, may authorize disclosure of such records, reports and other information to:

(A) A person licensed to practice the healing arts who has before that person a child whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a child, which advocate reports to the court, or an agency having the legal responsibility or authorization to care for, treat or supervise a child;

(C) a parent or other person responsible for the welfare of a child, or such person's legal representative, with protection for the identity of persons reporting and other appropriate persons;

(D) the child or the guardian ad litem for such child;

(E) the police or other law enforcement agency;

(F) an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the Kansas code for care of children or the Kansas juvenile justice code, whichever is applicable;

(G) a person who is a member of a multidisciplinary team;

(H) an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect;

(I) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect and specifically includes the following: Physicians, psychiatrists, nurse, nurse practitioners, psychologists, licensed social workers, child development specialists, physicians' assistants, community mental health workers, alcohol and drug abuse counselors and licensed or registered child care providers;

(J) a citizen review board;

(K) an educational institution if related to a juvenile that is required to attend such educational institution as part of an immediate intervention program or post-release supervision. [KNEA suggestion]

(3) To any juvenile intake and assessment worker of another certified juvenile intake and assessment program.

Sec. 46. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1608, as amended by section 45 of this bill, is hereby amended to read as follows: 38-1608.

(a) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile under years of age shall be kept readily distinguishable from criminal and other records and shall not be disclosed to anyone except:

(1) The judge and members of the court staff designated by the judge of a court having the juvenile before it in any proceedings;

(2) parties to the proceedings and their attorneys;

(3) the department of social and rehabilitation services;

(4) any individual, or any officer of a public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile;

(5) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties;

(6) the central repository, as defined by K.S.A. 22-4701 and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 38-1618 and amendments thereto;

(7) juvenile intake and assessment workers;

(8) juvenile justice authority;

(8) (9) any other person when authorized by a court order, subject to any conditions imposed by the order; and

(9) (10) as provided in subsection (c).

(b) The provisions of this section shall not apply to records concerning:

(1) A violation, by a person 14 or more years of age, of any provision of chapter 8 of the Kansas Statutes Annotated or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated; or

(3) an offense for which the juvenile is prosecuted as an adult.

(c) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile 14 or more years of age shall be subject to the same disclosure restrictions as the records of adults. Information identifying victims and alleged victims of sex offenses, as defined in K.S.A. chapter 21, article 35, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or any alleged victim of any sex offense from voluntarily disclosing their identity.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

(e) All records, reports and information obtained as a part of the juvenile intake and assessment process for juvenile offenders shall be confidential and shall not be disclosed except as provided in this section or by ~~supreme court administrative orders~~ rules and regulations established by the commissioner of juvenile justice.

(1) Any court of record may order the disclosure of such records, reports and other information to any person or entity.

(2) The head of any juvenile intake and assessment program, certified pursuant to ~~supreme court administrative orders~~ the commissioner of juvenile justice, may authorize disclosure of such records, reports and other information to:

(A) A person licensed to practice the healing arts who has before that person a child whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a child, which advocate reports to the court, or an agency having the legal responsibility or authorization to care for, treat or supervise a child;

(C) a parent or other person responsible for the welfare of a child, or such person's legal representative, with protection for the identity of persons reporting and other appropriate persons;

(D) the child or the guardian ad litem for such child;

(E) the police or other law enforcement agency;

(F) an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the Kansas code for care of children or the Kansas juvenile justice code, whichever is applicable;

(G) a person who is a member of a multidisciplinary team;

(H) an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect;

(I) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect and specifically includes the following: Physicians, psychiatrists, nurse, nurse practitioners, psychologists, licensed social workers, child development specialists, physicians' assistants, community mental health workers, alcohol and drug abuse counselors and licensed or registered child care providers;

(J) a citizen review board;

(K) an educational institution if related to a juvenile that is required to attend such educational institution as part of an immediate intervention program or post-release supervision.

(3) To any juvenile intake and assessment worker of another certified juvenile intake and assessment program.

Renumber the remaining sections accordingly.

[OJA, Juvenile Intake Specialist suggestion]

1 to the department of corrections upon request and a showing that the  
2 former juvenile has been convicted of a crime and placed in the custody  
3 of the secretary of the department of corrections.

4 Sec. 47. On and after July 1, 1997, K.S.A. 38-1610 is hereby  
5 amended to read as follows: 38-1610. (a) Except as provided in subsection  
6 (b), any records or files specified in this code concerning a juvenile of-  
7 fender may be expunged upon application to a judge of the court of the  
8 county in which the records or files are maintained. The application for  
9 expungement may be made by the person who is the juvenile offender or,  
10 if the person is a juvenile, by the person's parent or next friend.

11 (b) There shall be no expungement of records or files concerning acts  
12 committed by a juvenile which, if committed by an adult, would constitute  
13 a violation of K.S.A. 21-3503, 21-3504, 21-3506, 21-3509, 21-3510, 21-  
14 3511, 21-3516, 21-3603, 21-3608 or 21-3609 and amendments thereto or  
15 which would constitute an attempt to commit a violation of any of the  
16 offenses specified in this subsection.

17 (c) When a petition for expungement is filed, the court shall set a  
18 date for a hearing on the petition and shall give notice thereof to the  
19 county or district attorney. The petition shall state: (1) The juvenile's full  
20 name; (2) the full name of the juvenile at the time of the ~~adjudication~~  
21 *trial*, if different than (1); (3) the juvenile's sex and date of birth; (4) the  
22 offense for which the juvenile was adjudicated; (5) the date of the ~~adju-~~  
23 *diacation trial*; and (6) the identity of the ~~adjudicating~~ *trial* court. There  
24 shall be no docket fee for filing a petition pursuant to this section. All  
25 petitions for expungement shall be docketed in the original action. Any  
26 person who may have relevant information about the petitioner may tes-  
27 tify at the hearing. The court may inquire into the background of the  
28 petitioner.

29 (d) (1) After hearing, the court shall order the expungement of the  
30 records and files if the court finds that:

31 (A) The person has reached ~~21~~ 23 years of age or that two years have  
32 elapsed since the final discharge of the person;

33 (B) since the final discharge of the person, the person has not been  
34 convicted of a felony or of a misdemeanor other than a traffic offense or  
35 adjudicated a delinquent or miscreant under the Kansas juvenile code or  
36 a juvenile offender under the Kansas juvenile ~~offenders justice~~ code and  
37 no proceedings are pending seeking such a conviction or adjudication;  
38 and

39 (C) the circumstances and behavior of the petitioner warrant expun-  
gement.

40 (2) The court may require that all court costs, fees and restitution  
42 shall be paid.

43 (e) Upon entry of an order expunging records or files, the offense

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1 which the records or files concern shall be treated as if it never occurred,  
 2 except that ~~(1) the offense may be considered in determining whether a~~  
 3 ~~juvenile is a person described by subsection (b)(3) of K.S.A. 38-1602 and~~  
 4 ~~amendments thereto; and (2) upon conviction of a crime or adjudication~~  
 5 ~~in a subsequent action under this code the offense may be considered in~~  
 6 ~~determining the sentence to be imposed or disposition to be made.~~ The  
 7 person, the court and all law enforcement officers and other public offices  
 8 and agencies shall properly reply on inquiry that no record or file exists  
 9 with respect to the person. Inspection of the expunged files or records  
 10 thereafter may be permitted by order of the court upon petition by the  
 11 person who is the subject thereof. The inspection shall be limited to  
 12 inspection by the person who is the subject of the files or records and  
 13 those persons designated by that person.

14 (f) Copies of any order made pursuant to subsection (a) or (c) shall  
 15 be sent to each public officer and agency in the county having possession  
 16 of any records or files ordered to be expunged. If the officer or agency  
 17 fails to comply with the order within a reasonable time after its receipt,  
 18 the officer or agency may be adjudged in contempt of court and punished  
 19 accordingly.

20 (g) The court shall inform any juvenile who has been adjudicated a  
 21 juvenile offender of the provisions of this section.

22 (h) Nothing in this section shall be construed to prohibit the main-  
 23 tenance of information relating to an offense after records or files con-  
 24 cerning the offense have been expunged if the information is kept in a  
 25 manner that does not enable identification of the offender.

26 (i) Nothing in this section shall be construed to permit or require  
 27 expungement of files or records related to a child support order registered  
 28 pursuant to the Kansas juvenile offenders justice code.

29 Sec. 48. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1611 is  
 30 hereby amended to read as follows: 38-1611. (a) Fingerprints or photo-  
 31 graphs shall not be taken of any juvenile who is taken into custody for  
 32 any purpose, except that:

33 (1) Fingerprints or photographs of the juvenile may be taken if au-  
 34 thorized by a judge of the district court having jurisdiction;

35 (2) a juvenile's fingerprints shall be taken, and photographs of a ju-  
 36 venile may be taken, immediately upon taking the juvenile into custody  
 37 or upon first appearance or in any event before final ~~disposition~~ *sentenc-*  
 38 *ing*, before the court for an offense which, if committed by a person 18  
 39 or more years of age, would make the person liable to be arrested and  
 40 prosecuted for the commission of a felony as defined by K.S.A. 21-3105  
 and amendments thereto or a class A or B misdemeanor; and

41 (3) fingerprints or photographs of a juvenile may be taken under  
 42 K.S.A. 21-2501 and amendments thereto if the juvenile has been:  
 43

(j) Whenever the records or files of any adjud-  
 ication have been expunged under the provisions of this  
 section, the custodian of the records or files of adjud-  
 ication relating to that offense shall not disclose the  
 existence of such records or files, except  
 when requested by:

(1) The person whose record was expunged;

(2) a criminal justice agency, private  
 detective agency or a private patrol operator,  
 and the request is accompanied by a statement  
 that the request is being made in conjunction  
 with an application for employment with such  
 agency or operator by the person whose record has  
 been expunged;

(3) a court, upon a showing of a subsequent  
 conviction of the person whose record has been  
 expunged;

(4) the secretary of social and  
 rehabilitation services, or a designee of the  
 secretary, for the purpose of obtaining  
 information relating to employment in an  
 institution, as defined in K.S.A. 76-12a01 and  
 amendments thereto, of the department of social  
 and rehabilitation services of any person whose  
 record has been expunged;

(5) a person entitled to such information  
 pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is  
 accompanied by a statement that the request is  
 being made to aid in determining qualifications  
 for employment with the Kansas lottery or for  
 work in sensitive areas within the Kansas lottery  
 as deemed appropriate by the executive director  
 of the Kansas lottery;

(7) the governor or the Kansas racing  
 commission, or a designee of the commission, and  
 the request is accompanied by a statement that  
 the request is being made to aid in determining  
 qualifications for executive director of the  
 commission, for employment with the commission,  
 for work in sensitive areas in parimutuel racing  
 as deemed appropriate by the executive director  
 of the commission or for licensure, renewal of  
 licensure or continued licensure by the  
 commission; or

(8) the Kansas sentencing commission.

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1 (A) Prosecuted as an adult by reason of subsection (b)(3) of K.S.A.  
2 38-1602 or 38-1636, and amendments thereto; or

3 (B) convicted of aggravated juvenile delinquency as defined by K.S.A.  
4 21-3611 and amendments thereto; or

5 (C) taken into custody for an offense described in subsection (b)(1)  
6 or (2) of K.S.A. 38-1602 and amendments thereto.

7 (b) Fingerprints and photographs taken under subsection (a)(1) or  
8 (2) shall be kept readily distinguishable from those of persons of the age  
9 of majority. Fingerprints and photographs taken under subsection (a)(3)  
10 may be kept in the same manner as those of persons of the age of majority.

11 (c) Fingerprints and photographs of a juvenile shall not be sent to a  
12 state or federal repository, except that:

13 (1) Fingerprints and photographs may be sent to a state or federal  
14 repository if authorized by a judge of the district court having jurisdiction;

15 (2) a juvenile's fingerprints shall, and photographs of a juvenile may,  
16 be sent to a state or federal repository if taken under subsection (a)(2);  
17 and

18 (3) fingerprints or photographs taken under subsection (a)(3) shall be  
19 processed and disseminated in the same manner as those of persons of  
20 the age of majority.

21 (d) Fingerprints or photographs of a juvenile may be furnished to  
22 another juvenile justice agency, as defined by K.S.A. 38-1617 and amend-  
23 ments thereto, if the other agency has a legitimate need for the finger-  
24 prints or photographs.

25 (e) Any fingerprints or photographs of a juvenile taken under the  
26 provisions of subsection (a)(2) as it existed before the effective date of  
27 this act may be sent to a state or federal repository on or before December  
28 31, 1984.

29 (f) Any law enforcement agency that willfully fails to make any report  
30 required by this section shall be liable to the state for the payment of a  
31 civil penalty, recoverable in an action brought by the attorney general, in  
32 an amount not exceeding \$500 for each report not made. Any civil penalty  
33 recovered under this subsection shall be paid into the state general fund.

34 (g) The director of the Kansas bureau of investigation shall adopt any  
35 rules and regulations necessary to implement, administer and enforce the  
36 provisions of this section, including time limits within which fingerprints  
37 shall be sent to a state or federal repository when required by this section.

38 (h) Nothing in this section shall preclude the custodian of a juvenile  
39 from authorizing photographs or fingerprints of the juvenile to be used  
40 in any action under the Kansas parentage act.

41 Sec. 49. On and after July 1, 1997, K.S.A. 38-1613 is hereby  
42 amended to read as follows: 38-1613. (a) *Docket fee*. The docket fee for  
43 proceedings under this code, if one is assessed as provided by this section,

1 shall be \$16.50. Only one docket fee shall be assessed in each case.

2 (b) *Expenses.* The expenses for proceedings under this code, includ-  
3 ing fees and mileage allowed witnesses and fees and expenses approved  
4 by the court for appointed attorneys, shall be paid by the board of county  
5 commissioners from the general fund of the county.

6 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket  
7 fee may be assessed or waived by the court conducting the initial ~~dispos-~~  
8 ~~itional~~ sentencing hearing and may be assessed against the complaining  
9 witness, the person initiating the prosecution, the juvenile offender or  
10 the parent of the juvenile offender. Any docket fee received shall be  
11 remitted to the state treasurer pursuant to K.S.A. 20-362, and amend-  
12 ments thereto.

13 (2) *Waiver and assessment.* Expenses may be waived or assessed  
14 against the complaining witness, the person initiating the prosecution, the  
15 juvenile offender or a parent of the juvenile offender. When expenses are  
16 recovered from a party against whom they have been assessed the general  
17 fund of the county shall be reimbursed in the amount of the recovery.

18 (3) *Prohibited assessment.* Docket fees or expenses shall not be as-  
19 sessed against the state, a political subdivision of the state, an agency of  
20 the state or of a political subdivision of the state or a person acting in the  
21 capacity of an employee of the state or of a political subdivision of the  
22 state.

23 (d) *Cases in which venue is transferred.* If venue is transferred from  
24 one county to another, the court from which the case is transferred shall  
25 send to the receiving court a statement of expenses paid from the general  
26 fund of the sending county. If the receiving court collects any of the  
27 expenses owed in the case, the receiving court shall pay to the sending  
28 court an amount proportional to the sending court's share of the total  
29 expenses owed to both counties. The expenses of the sending county shall  
30 not be an obligation of the receiving county except to the extent that the  
31 sending county's proportion of the expenses is collected by the receiving  
32 court. All amounts collected shall first be applied toward payment of the  
33 docket fee.

34 Sec. 50. On and after July 1, 1997, K.S.A. 38-1614 is hereby  
35 amended to read as follows: 38-1614. (a) *Physical care and treatment.* (1)  
36 When the health or condition of a juvenile who is subject to the jurisdic-  
37 tion of the court requires it, the court may consent to the performing and  
38 furnishing of hospital, medical, surgical or dental treatment or procedures  
39 including the release and inspection of medical or dental records.

40 (2) When the health or condition of a juvenile requires it and the  
41 juvenile has been placed in the custody of a person other than a parent  
42 or placed in or committed to a facility, the custodian or an agent desig-  
43 nated by the custodian shall have authority to consent to the performance

2 and furnishing of hospital, medical, surgical or dental treatment or pro-  
 3 cedures including the release and inspection of medical or dental records,  
 4 subject to terms and conditions the court considers proper. The provi-  
 5 sions of this subsection shall also apply to juvenile felons, as defined in  
 6 K.S.A. 38-16,112, ~~and amendments thereto prior to its repeal~~, who have  
 7 been placed in a ~~youth center~~ juvenile correctional facility pursuant to  
 8 K.S.A. 75-5206, and amendments thereto.

8 (3) Any health care provider, who in good faith renders hospital, med-  
 9 ical, surgical or dental care or treatment to any juvenile after a consent  
 10 has been obtained as authorized by this section, shall not be liable in any  
 11 civil or criminal action for failure to obtain consent of a parent.

12 (4) Nothing in this section shall be construed to mean that any person  
 13 shall be relieved of legal responsibility to provide care and support for a  
 14 juvenile.

15 (b) *Mental care and treatment.* If it is brought to the court's attention,  
 16 while the court is exercising jurisdiction over the person of a juvenile  
 17 under this code, that the juvenile may be a mentally ill person as defined  
 18 in K.S.A. 59-2902, and amendments thereto, the court may:

19 (1) Direct or authorize the county or district attorney or the person  
 20 supplying the information to file the application provided for in K.S.A.  
 21 59-2913, and amendments thereto, and proceed to hear and determine  
 22 the issues raised by the application as provided in the treatment act for  
 23 mentally ill persons; or

24 (2) authorize that the juvenile seek voluntary admission to a treat-  
 25 ment facility as provided in K.S.A. 59-2905, and amendments thereto.

26 The application to determine whether the juvenile is a mentally ill  
 27 person may be filed in the same proceedings as the petition alleging the  
 28 juvenile to be a juvenile offender or may be brought in separate pro-  
 29 ceedings. In either event, the court may enter an order staying any further  
 30 proceedings under this code until all proceedings have been concluded  
 31 under the treatment act for mentally ill persons.

32 Sec. 51. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1616 is  
 33 hereby amended to read as follows: 38-1616. (a) *How paid.* (1) If a ju-  
 34 venile accused of being or adjudicated to be a juvenile offender is not  
 35 eligible for assistance under K.S.A. 39-709 and amendments thereto, ex-  
 36 penses for the care and custody of the juvenile shall be paid out of the  
 37 general fund of the county in which the proceedings are brought. For the  
 38 purpose of this section, a juvenile who is a nonresident of the state of  
 39 Kansas or whose residence is unknown shall have residence in the county  
 40 where the proceedings are instituted.

41 (2) When a law enforcement officer has taken a juvenile into custody  
 42 as authorized by subsection (a) of K.S.A. 38-1624 and amendments  
 43 thereto and delivered the juvenile to a person or facility, other than a

Insert attached section.

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Sec. 51. K.S.A. 1995 Supp. 38-1616 is hereby amended to read as follows:

(a) How paid. (1) If a juvenile accused of being or adjudicated to be a juvenile offender is not eligible for assistance under K.S.A. 39-709 and amendments thereto, expenses for the care and custody of the juvenile shall be paid out of the general fund of the county in which the proceedings are brought. For the purpose of this section, a juvenile who is a nonresident of the state of Kansas or whose residence is unknown shall have residence in the county where the proceedings are instituted.

(2) When a law enforcement officer has taken a juvenile into custody as authorized by subsection (a) of K.S.A. 38-1624 and amendments thereto and delivered the juvenile to a person or facility, other than a juvenile detention facility, designated by the secretary or when custody of a juvenile is awarded to the secretary, the expenses of the care and custody of the juvenile may be paid by the secretary out of the state social welfare fund, subject to payment or reimbursement as required in subsection (b), even though the juvenile does not meet the eligibility standards of K.S.A. 39-709 and amendments thereto.

(3) When the custody of a juvenile is awarded to the secretary of social and rehabilitation services, the expenses for the care and custody of the juvenile from the date of custody forward shall not be paid out of the county general fund, except as provided in subsection (d). In no event shall the payment authorized by this subsection exceed the state approved rate.

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to support a juvenile.

(b) Reimbursement to county general fund. (1) When expenses for the care and custody of a juvenile accused of being or adjudicated to be a juvenile offender have been paid out of the county general fund of any county in this state, the court may fix a time and place for hearing on the question of requiring payment or reimbursement of all or part of the expenses by a person who by law is liable to maintain, care for or support the juvenile.

(2) The court, after notice to the person who by law is liable to maintain, care for or support the juvenile, may hear and dispose of the matter and may enter an order relating to payment of expenses for care and custody of the juvenile. If the person willfully fails or refuses to pay the sum, the person may be adjudged in contempt of court and punished accordingly.

(3) Any county which makes payment to maintain, care for or support an accused or adjudicated juvenile offender may bring a separate action against a person who by law is liable to maintain, care for or support such juvenile for the reimbursement of expenses paid out of the county general fund for the care and

custody of the juvenile.

(c) Reimbursement to state social welfare fund. When expenses for the care and custody of a juvenile accused of being or adjudicated to be a juvenile offender have been paid out of the state social welfare fund, the secretary may recover the expenses pursuant to K.S.A. 39-709, 39-718a, 39-718b or 39-755, and amendments thereto, or as otherwise provided by law, from any person who by law is liable to maintain, care for or support the juvenile.

The secretary shall have the power to compromise and settle any claim due or any amount claimed to be due to the secretary from any person who by law is liable to maintain, care for or support the juvenile.

(d) When a county has made an interlocal agreement to maintain, care for or support juvenile offenders who are residents of another county and such other county is a party to the interlocal agreement with the county which performs the actual maintenance, care and support of the accused or adjudicated juvenile offender, such county of residence may pay from its county general fund to the other county whatever amount is agreed upon in the interlocal agreement irrespective of any amount paid or to be paid by the state department of social and rehabilitation services. The state department of social and rehabilitation services shall not diminish the amount it would otherwise reimburse any such county for maintaining, caring for and supporting any such accused or adjudicated juvenile offender because of any payment under such an interlocal agreement.

Renumber remaining sections accordingly.

[SRS suggestion]

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juvenile detention facility, designated by the ~~secretary~~ commissioner or when custody of a juvenile is awarded to the ~~secretary~~ commissioner, the expenses of the care and custody of the juvenile may be paid by the ~~secretary out of the state social welfare fund~~ commissioner, subject to payment or reimbursement as required in subsection (b), even though the juvenile does not meet the eligibility standards of K.S.A. 39-709 and amendments thereto.

~~(3) When the custody of a juvenile is awarded to the secretary of social and rehabilitation services commissioner, the expenses for the care and custody of the juvenile shall not be paid out of the county general fund, except as provided in subsection (d).~~

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to support a juvenile.

(b) *Reimbursement to county general fund.* (1) When expenses for the care and custody of a juvenile accused of being or adjudicated to be a juvenile offender have been paid out of the county general fund of any county in this state, the court may fix a time and place for hearing on the question of requiring payment or reimbursement of all or part of the expenses by a person who by law is liable to maintain, care for or support the juvenile.

(2) The court, after notice to the person who by law is liable to maintain, care for or support the juvenile, may hear and dispose of the matter and may enter an order relating to payment of expenses for care and custody of the juvenile. If the person willfully fails or refuses to pay the sum, the person may be adjudged in contempt of court and punished accordingly.

(3) Any county which makes payment to maintain, care for or support an accused or adjudicated juvenile offender may bring a separate action against a person who by law is liable to maintain, care for or support such juvenile for the reimbursement of expenses paid out of the county general fund for the care and custody of the juvenile.

(c) *Reimbursement to state social welfare fund the commissioner.* When expenses for the care and custody of a juvenile accused of being or adjudicated to be a juvenile offender have been paid out of the state social welfare fund by the commissioner, the ~~secretary~~ commissioner may recover the expenses pursuant to K.S.A. 30-700, 30-718a, 30-718b or 30-755, and amendments thereto, or as otherwise as provided by law; from any person who by law is liable to maintain, care for or support the juvenile. The ~~secretary~~ commissioner shall have the power to compromise and settle any claim due or any amount claimed to be due to the ~~secretary~~ commissioner from any person who by law is liable to maintain, care for or support the juvenile. *The commissioner may contract with a state agency, contract with an individual or hire personnel to collect the re-*

(3) When the custody of a juvenile is awarded to the secretary of social and rehabilitation services commissioner, the expenses for the care and custody of the juvenile from the date of custody forward shall not be paid out of the county general fund, except as provided in subsection (d). In no event shall the payment authorized by this subsection exceed the state approved rate.

[SRS suggestion]

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1 *imbursements required under this subsection.*

2 (d) When a county has made an interlocal agreement to maintain,  
3 care for or support juvenile offenders who are residents of another county  
4 and such other county is a party to the interlocal agreement with the  
5 county which performs the actual maintenance, care and support of the  
6 accused or adjudicated juvenile offender, such county of residence may  
7 pay from its county general fund to the other county whatever amount is  
8 agreed upon in the interlocal agreement irrespective of any amount paid  
9 or to be paid by the ~~state department of social and rehabilitation services~~  
10 *juvenile justice authority*. The ~~state department of social and rehabilita-~~  
11 ~~tion services juvenile justice authority~~ shall not diminish the amount it  
12 would otherwise reimburse any such county for maintaining, caring for  
13 and supporting any such accused or adjudicated juvenile offender because  
14 of any payment under such an interlocal agreement.

15 Sec. 52. On and after July 1, 1996, K.S.A. 38-1617 is hereby  
16 amended to read as follows: 38-1617. As used in K.S.A. 38-1618 and  
17 amendments thereto, unless the context otherwise requires:

18 (a) "Central repository" has the meaning provided by K.S.A. 22-4701  
19 and amendments thereto.

20 (b) "Director" means the director of the Kansas bureau of investi-  
21 gation.

22 (c) "Juvenile offender information" means data relating to juveniles  
23 alleged or adjudicated to be juvenile offenders, offenses committed or  
24 alleged to have been committed by juveniles in proceedings pursuant to  
25 the Kansas juvenile code or Kansas juvenile offenders code.

26 (d) "Juvenile justice agency" means any county or district attorney,  
27 law enforcement agency of this state or of any political subdivision of this  
28 state, court of this state or of a municipality of this state, administrative  
29 agency of this state or any political subdivision of this state, state youth  
30 center or juvenile detention facility.

31 (e) "Reportable event" means:

- 32 (1) Issuance of a warrant to take a juvenile into custody;
- 33 (2) taking a juvenile into custody pursuant to this code;
- 34 (3) release of a juvenile who has been taken into custody pursuant to  
35 this code, without the filing of a complaint;
- 36 (4) dismissal of a complaint filed pursuant to this code;
- 37 (5) an adjudication in a proceeding pursuant to this code;
- 38 (6) a disposition in a proceeding pursuant to this code;
- 39 (7) commitment to or placement in a youth residential facility, juve-  
40 nile detention facility or state youth center pursuant to this code;
- 41 (8) release or discharge from commitment or jurisdiction of the court  
42 pursuant to this code;
- 43 (9) escape from commitment or placement pursuant to this code;



(10) entry of a judgment of an appellate court that reverses adjudication or disposition pursuant to this code;

(11) an order authorizing prosecution as an adult; ~~or~~

(12) *the issuance of an intake and assessment report; or*

(13) any other event arising out of or occurring during the course of proceedings pursuant to this code and declared to be reportable by rules and regulations of the director.

Sec. 53. On and after July 1, 1997, K.S.A. 38-1617, as amended by section 52 of this bill, is hereby amended to read as follows: 38-1617. As used in K.S.A. 38-1618 and amendments thereto, unless the context otherwise requires:

(a) "Central repository" has the meaning provided by K.S.A. 22-4701 and amendments thereto.

(b) "Director" means the director of the Kansas bureau of investigation.

(c) "Juvenile offender information" means data relating to juveniles alleged or adjudicated to be juvenile offenders, offenses committed or alleged to have been committed by juveniles in proceedings pursuant to the Kansas juvenile code or Kansas juvenile ~~offenders~~ *justice* code.

(d) "Juvenile justice agency" means any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a municipality of this state, administrative agency of this state or any political subdivision of this state, ~~state youth center~~ *juvenile correctional facility* or juvenile detention facility.

(e) "Reportable event" means:

(1) Issuance of a warrant to take a juvenile into custody;

(2) taking a juvenile into custody pursuant to this code;

(3) release of a juvenile who has been taken into custody pursuant to this code, without the filing of a complaint;

(4) dismissal of a complaint filed pursuant to this code;

(5) ~~an adjudication a trial~~ in a proceeding pursuant to this code;

(6) a ~~disposition~~ *sentence* in a proceeding pursuant to this code;

(7) commitment to or placement in a youth residential facility, juvenile detention facility or ~~state youth center~~ *juvenile correctional facility* pursuant to this code;

(8) release or discharge from commitment or jurisdiction of the court pursuant to this code;

(9) escape from commitment or placement pursuant to this code;

(10) entry of a judgment of an appellate court that reverses ~~adjudication or disposition~~ *the trial court or sentence* pursuant to this code;

(11) an order authorizing prosecution as an adult;

(12) the issuance of an intake and assessment report;

(13) *the report from a reception and diagnostic center; or*

1 (14) any other event arising out of or occurring during the course of  
2 proceedings pursuant to this code and declared to be reportable by rules  
3 and regulations of the director.

4 Sec. 54. On and after July 1, 1996, K.S.A. 38-1618 is hereby  
5 amended to read as follows: 38-1618. (a) In order to properly advise the  
6 three branches of government on the operation of the juvenile justice  
7 system, there is hereby established within and as a part of the central  
8 repository, as defined by K.S.A. 22-4701 and amendments thereto, a ju-  
9 venile offender information system. The system shall serve as a repository  
10 of juvenile offender information which is collected by juvenile justice  
11 agencies and reported to the system. *Unless extended by an official action*  
12 *of the Kansas criminal justice coordinating council, the juvenile offender*  
13 *information system shall be operational and functional on or before July*  
14 *1, 1997.*

15 (b) Except as otherwise provided by this subsection, every juvenile  
16 justice agency shall report juvenile offender information, whether col-  
17 lected manually or by means of an automated system, to the central re-  
18 pository, in accordance with rules and regulations adopted pursuant to  
19 this section. A juvenile justice agency shall report to the central repository  
20 those reportable events involving a violation of a county resolution or city  
21 ordinance only when required by rules and regulations adopted by the  
22 director.

23 (c) Reporting methods may include:

24 (1) Submission of juvenile offender information by a juvenile justice  
25 agency directly to the central repository;

26 (2) if the information can readily be collected and reported through  
27 the court system, submission to the central repository by the office of  
28 judicial administrator; or

29 (3) if the information can readily be collected and reported through  
30 juvenile justice agencies that are part of a geographically based infor-  
31 mation system, submission to the central repository by the agencies.

32 (d) The director may determine, by rule and regulation, the report-  
33 able events to be reported by each juvenile justice agency, in order to  
34 avoid duplication in reporting.

35 (e) Juvenile offender information maintained in the juvenile offender  
36 information system is confidential and shall not be disseminated or pub-  
37 licly disclosed in a manner which enables identification of any individual  
38 who is a subject of the information, except that the information shall be  
39 open to inspection by law enforcement agencies of this state, by the de-  
40 partment of social and rehabilitation services if related to an individual in  
41 the secretary's custody or control, by the department of corrections if  
42 related to an individual in the secretary's custody or control, by the offi-  
43 cers of any public institution to which the individual is committed, by

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1 county and district attorneys, by attorneys for the parties to a proceeding  
2 under this code, *the intake and assessment worker* or upon order of a  
3 judge of the district court or an appellate court.

4 (f) Any journal entry of an adjudication of a juvenile to be a juvenile  
5 offender shall state the number of the statute under which the juvenile  
6 is adjudicated to be a juvenile offender and specify whether each offense,  
7 if done by an adult, would constitute a felony or misdemeanor, as defined  
8 by K.S.A. 21-3105 and amendments thereto.

9 (g) Any law enforcement agency that willfully fails to make any report  
10 required by this section shall be liable to the state for the payment of a  
11 civil penalty, recoverable in an action brought by the attorney general, in  
12 an amount not exceeding \$500 for each report not made. Any civil penalty  
13 recovered under this subsection shall be paid into the state general fund.

14 (h) The director shall adopt any rules and regulations necessary to  
15 implement, administer and enforce the provisions of this section.

16 (i) K.S.A. 38-1617 and amendments thereto and this section shall be  
17 part of and supplemental to the Kansas juvenile offenders code.

18 (j) *The director shall develop incentives to encourage the timely entry*  
19 *of juvenile offender information into the central repository.*

20 Sec. 55. On and after July 1, 1997, K.S.A. 38-1618, as amended by  
21 section 54 of this bill, is hereby amended to read as follows: 38-1618. (a)  
22 In order to properly advise the three branches of government on the  
23 operation of the juvenile justice system, there is hereby established within  
24 and as a part of the central repository, as defined by K.S.A. 22-4701 and  
25 amendments thereto, a juvenile offender information system. The system  
26 shall serve as a repository of juvenile offender information which is col-  
27 lected by juvenile justice agencies and reported to the system. Unless  
28 extended by an official action of the Kansas criminal justice coordinating  
29 council, the juvenile offender information system shall be operational and  
30 functional on or before July 1, 1997.

31 (b) Except as otherwise provided by this subsection, every juvenile  
32 justice agency shall report juvenile offender information, whether col-  
33 lected manually or by means of an automated system, to the central re-  
34 pository, in accordance with rules and regulations adopted pursuant to  
35 this section. A juvenile justice agency shall report to the central repository  
36 those reportable events involving a violation of a county resolution or city  
37 ordinance only when required by rules and regulations adopted by the  
38 director.

39 (c) Reporting methods may include:

40 (1) Submission of juvenile offender information by a juvenile justice  
41 agency directly to the central repository;

42 (2) if the information can readily be collected and reported through  
43 the court system, submission to the central repository by the office of

judicial administrator; or

(3) if the information can readily be collected and reported through juvenile justice agencies that are part of a geographically based information system, submission to the central repository by the agencies.

(d) The director may determine, by rule and regulation, the reportable events to be reported by each juvenile justice agency, in order to avoid duplication in reporting.

(e) Juvenile offender information maintained in the juvenile offender information system is confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information, except that the information shall be open to inspection by law enforcement agencies of this state, by the ~~department of social and rehabilitation services~~ *juvenile justice authority* if related to an individual in the ~~secretary's~~ *commissioner's* custody or control, by the department of corrections if related to an individual in the ~~secretary's~~ *commissioner's* custody or control, by the officers of any public institution to which the individual is committed, by county and district attorneys, by attorneys for the parties to a proceeding under this code, the intake and assessment worker or upon order of a judge of the district court or an appellate court.

(f) Any journal entry of ~~an adjudication~~ *a trial* of a juvenile *adjudged* to be a juvenile offender shall state the number of the statute under which the juvenile is adjudicated to be a juvenile offender and specify whether each offense, if done by an adult, would constitute a felony or misdemeanor, as defined by K.S.A. 21-3105 and amendments thereto.

(g) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(h) The director shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section.

(i) K.S.A. 38-1617 and amendments thereto and this section shall be part of and supplemental to the Kansas juvenile ~~offenders~~ *justice* code.

(j) The director shall develop incentives to encourage the timely entry of juvenile offender information into the central repository.

Sec. 56. On and after July 1, 1997, K.S.A. 38-1622 is hereby amended to read as follows: 38-1622. (a) *Complaint.* (1) Any person 18 or more years of age having knowledge of a juvenile who appears to be a juvenile offender may file with the court having jurisdiction a verified complaint, in writing, which shall state, if known:

(A) The name, date of birth and residence address of the juvenile;

(B) the name and residence address of the juvenile's parents;

by the educational institution if related to an individual that is required to attend such educational institution as part of an immediate intervention program or post-release supervision

[KNEA suggestion]

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(C) the name and residence address of any persons having custody or control of the juvenile, or the nearest known relative if no parent can be found;

(D) plainly and concisely the essential facts constituting the offense charged and, if the statement is drawn in the language of the statute, ordinance or resolution alleged to have been violated, it shall be considered sufficient; and

(E) for each count, the official or customary citation of the statute, ordinance or resolution which is alleged to have been violated, but error in the citation or its omission shall not be grounds for dismissal of the complaint or for reversal of an adjudication *a trial* if the error or omission did not prejudice the respondent.

(2) The proceedings shall be entitled: "In the matter of \_\_\_\_\_, respondent."

(3) The complaint shall contain a request that the parent or parents of the juvenile be ordered to pay child support. The request for child support may be omitted with respect to a parent already ordered to pay child support for the juvenile or with respect to a respondent 18 years of age or more. The request for child support shall be omitted with respect to one or both parents upon written request of the ~~secretary~~ *commissioner*.

(4) The precise time of the commission of an offense need not be stated in the complaint, but it is sufficient if shown to have been within the statute of limitations, except where the time is an indispensable element of the offense.

(5) The prosecuting attorney shall endorse the names of all witnesses known to the attorney upon the complaint at the time of filing. The prosecuting attorney may endorse on the complaint the names of other witnesses that afterward become known to the attorney, at such times as the court prescribes by rule or otherwise.

(b) *Motions*. Motions may be made orally or in writing. The motion shall state with particularity the grounds for the motion and shall state the relief or order sought.

Sec. 57. On and after July 1, 1996, K.S.A. 38-1624 is hereby amended to read as follows: 38-1624. (a) *By a law enforcement officer*. A law enforcement officer may take an alleged juvenile offender into custody when:

(1) Any offense has been or is being committed by the juvenile in the officer's view;

(2) the officer has a warrant commanding that the juvenile be taken into custody;

(3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in

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1 this state or in another jurisdiction for an act committed therein;

2 (4) the officer has probable cause to believe that the juvenile is com-  
3 mitting or has committed an act which, if committed by an adult, would  
4 constitute:

5 (A) A felony; or

6 (B) a misdemeanor and (i) the juvenile will not be apprehended or  
7 evidence of the offense will be irretrievably lost unless the juvenile is  
8 immediately taken into custody or (ii) the juvenile may cause injury to  
9 self or others or damage to property or may be injured unless immediately  
10 taken into custody; or

11 (5) the officer has probable cause to believe that the juvenile has  
12 violated an order for electronic monitoring as a term of probation.

13 (b) *By a court services officer.* A court services officer may take a  
14 juvenile into custody when there is a warrant commanding that the ju-  
15 venile be taken into custody, when the court services officer has probable  
16 cause to believe that a warrant or order commanding that the juvenile be  
17 taken into custody has been issued in this state or in another jurisdiction  
18 for an act committed therein or when there is probable cause to believe  
19 that the juvenile has violated an order for electronic monitoring as a term  
20 of probation.

21 (c) *Procedure.* When any law enforcement officer takes an alleged  
22 juvenile offender into custody pursuant to subsection (a) without a war-  
23 rant or court order and determines that the juvenile shall be detained or  
24 placed outside the juvenile's home, the juvenile shall be taken without  
25 unnecessary delay to an intake and assessment worker if an intake and  
26 assessment program exists in the jurisdiction, or before the court for pro-  
27 ceedings in accordance with this code or, if the court is not open for the  
28 regular conduct of business, to a court services officer, a juvenile intake  
29 and assessment worker, a juvenile detention facility or youth residential  
30 facility which the court or the secretary of social and rehabilitation serv-  
31 ices shall have designated. The officer shall not take the juvenile to a  
32 juvenile detention facility unless the juvenile meets one or more of the  
33 criteria listed in K.S.A. 38-1640, and amendments thereto. Even if the  
34 juvenile meets one or more of such criteria, the officer shall first consider  
35 whether taking the juvenile to an available nonsecure facility is more  
36 appropriate.

37 It shall be the duty of the officer to furnish the county or district at-  
38 torney or the juvenile intake and assessment worker if the officer has  
39 delivered such juvenile to the worker, with all of the information in the  
40 possession of the officer pertaining to the juvenile; the juvenile's parents,  
41 or other persons interested in or likely to be interested in the juvenile;  
42 and all other facts and circumstances which caused the juvenile to be  
43 arrested or taken into custody.

The juvenile intake and assessment worker shall furnish to the county or district attorney a written copy of the information collected in the intake and assessment report.

[OJA, Juvenile Intake Specialist suggestion]

2 (d) *Release prior to detention hearing.* In the absence of a court order  
3 to the contrary, the court or officials designated by the court, the county  
4 or district attorney or the law enforcement agency taking a juvenile into  
5 custody shall have the authority to direct the release of the juvenile prior  
6 to the time specified by subsection (a) of K.S.A. 38-1632 and amendments  
7 thereto. *In addition, a juvenile intake and assessment worker shall have*  
8 *the authority to direct the release of a juvenile prior to a detention hearing*  
9 *after the completion of the intake and assessment process if the juvenile*  
10 *intake and assessment worker has reason to believe that if released the*  
11 *juvenile will appear for further proceedings and will not be dangerous to*  
12 *self or others.*

13 (e) *Person 18 or over taken into custody; detention and release.*  
14 Whenever a person 18 years of age or more is taken into custody by a  
15 law enforcement officer for an alleged offense which was committed prior  
16 to the time the person reached the age of 18, the officer shall notify and  
17 refer the matter to the court for proceedings pursuant to this code, except  
18 that the provisions of this code relating to detention hearings shall not  
19 apply to that person. Unless the law enforcement officer took the person  
20 into custody pursuant to a warrant issued by the court and the warrant  
21 specifies the amount of bond or indicates that the person may be released  
22 on personal recognizance, the person shall be taken before the court of  
23 the county where the alleged act took place or, at the request of the  
24 person, the person shall be taken, without delay, before the nearest court.  
25 The court shall fix the terms and conditions of an appearance bond upon  
26 which the person may be released from custody. The provisions of article  
27 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901  
28 and amendments thereto relating to appearance bonds and review of  
29 conditions and release shall be applicable to appearance bonds provided  
30 for in this section.

31 Sec. 58. On and after July 1, 1997, K.S.A. 38-1624, as amended by  
32 section 57 of this bill, is hereby amended to read as follows: 38-1624. (a)  
33 *By a law enforcement officer.* A law enforcement officer may take an  
34 alleged juvenile offender into custody when:

35 (1) Any offense has been or is being committed by the juvenile in the  
36 officer's view;

37 (2) the officer has a warrant commanding that the juvenile be taken  
38 into custody;

39 (3) the officer has probable cause to believe that a warrant or order  
40 commanding that the juvenile be taken into custody has been issued in  
41 this state or in another jurisdiction for an act committed therein;

42 (4) the officer has probable cause to believe that the juvenile is com-  
43 mitting or has committed an act which, if committed by an adult, would  
44 constitute:

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1 (A) A felony; or  
 2 (B) a misdemeanor and (i) the juvenile will not be apprehended or  
 3 evidence of the offense will be irretrievably lost unless the juvenile is  
 4 immediately taken into custody or (ii) the juvenile may cause injury to  
 5 self or others or damage to property or may be injured unless immediately  
 6 taken into custody; or

7 (5) the officer has probable cause to believe that the juvenile has  
 8 violated an order for electronic monitoring as a term of probation.

9 (b) *By a court services officer.* A court services officer may take a  
 10 juvenile into custody when there is a warrant commanding that the ju-  
 11 venile be taken into custody, when the court services officer has probable  
 12 cause to believe that a warrant or order commanding that the juvenile be  
 13 taken into custody has been issued in this state or in another jurisdiction  
 14 for an act committed therein or when there is probable cause to believe  
 15 that the juvenile has violated an order for electronic monitoring as a term  
 16 of probation.

17 (c) *Procedure.* When any law enforcement officer takes an alleged  
 18 juvenile offender into custody pursuant to subsection (a) without a war-  
 19 rant or court order and determines that the juvenile shall be detained or  
 20 placed outside the juvenile's home, the juvenile shall be taken without  
 21 unnecessary delay to an intake and assessment worker if an intake and  
 22 assessment program exists in the jurisdiction, or before the court for pro-  
 23 ceedings in accordance with this code or, if the court is not open for the  
 24 regular conduct of business, to a court services officer, a juvenile intake  
 25 and assessment worker, a juvenile detention facility or youth residential  
 26 facility which the court or the ~~secretary of social and rehabilitation serv-~~  
 27 ~~ices commissioner~~ shall have designated. The officer shall not take the  
 28 juvenile to a juvenile detention facility unless the juvenile meets one or  
 29 more of the criteria listed in K.S.A. 38-1640, and amendments thereto.  
 30 Even if the juvenile meets one or more of such criteria, the officer shall  
 31 first consider whether taking the juvenile to an available nonsecure facility  
 32 is more appropriate.

33 It shall be the duty of the officer to furnish the county or district at-  
 34 torney or the juvenile intake and assessment worker if the officer has  
 35 delivered such juvenile to the worker, with all of the information in the  
 36 possession of the officer pertaining to the juvenile; the juvenile's parents,  
 37 or other persons interested in or likely to be interested in the juvenile;  
 38 and all other facts and circumstances which caused the juvenile to be  
 39 arrested or taken into custody.

40 (d) *Release prior to detention hearing.* In the absence of a court order  
 41 to the contrary, the court or officials designated by the court, the county  
 42 or district attorney or the law enforcement agency taking a juvenile into  
 43 custody shall have the authority to direct the release of the juvenile prior



to the time specified by subsection (a) of K.S.A. 38-1632 and amendments thereto. In addition, *if an agreement is established pursuant to K.S.A. 38-1635, and amendments thereto*, a juvenile intake and assessment worker shall have the authority to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process if the juvenile intake and assessment worker has reason to believe that if released the juvenile will appear for further proceedings and will not be dangerous to self or others.

(e) *Person 18 or over taken into custody; detention and release.* Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901 and amendments thereto relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

Sec. 59. On and after July 1, 1997, K.S.A. 38-1626 is hereby amended to read as follows: 38-1626. (a) *Persons upon whom served.* The summons and a copy of the complaint shall be served on the juvenile alleged to be a juvenile offender, the parents or parent having legal custody or who may be ordered to pay child support by the court, the person with whom the juvenile is residing, and any other person designated by the county or district attorney.

(b) *Form.* The summons shall be issued by the clerk, dated the day it is issued, contain the name of the court and the caption of the case and be in substantially the following form:

(Name of Court)

In the Matter of

\_\_\_\_\_, Respondent

Case No. \_\_\_\_\_

Date of birth \_\_\_\_\_

A \_\_\_ male \_\_\_ female under the age of 18 years.

S U M M O N S

TO:

(Juvenile)

(Father)

(Mother)

(Other having custody-  
relationship)

(Address)

A complaint has been filed in this court, a copy of which is attached.

On \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m. the above-named juvenile and a parent and any other person having legal custody are required to appear before this court at \_\_\_\_\_. Failure to appear may cause the juvenile to be taken into custody and brought before the court.

The juvenile will be required to ~~admit or deny~~ plead guilty or not guilty to the statements in the complaint. You have the right to hire an attorney to represent the above juvenile. If you do not hire an attorney, the court will appoint an attorney for the juvenile. The juvenile, parent or other person having legal custody of the juvenile may be required to repay the court for the expense of the appointed attorney. The court may order one or both parents to pay child support.

Date \_\_\_\_\_, 19\_\_\_\_

Clerk of the District Court

by \_\_\_\_\_

(Seal)

Sec. 60. On and after July 1, 1997, K.S.A. 38-1632 is hereby amended to read as follows: 38-1632. (a) *Length of detention.* (1) Whenever an alleged juvenile offender is taken into custody and is thereafter taken before the court or to a juvenile detention facility or youth residential facility designated by the court, the juvenile shall not remain detained for more than 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the initial detention was imposed, unless the court determines after hearing, within the 48-hour period, that further detention is necessary.

(2) If a juvenile is detained in jail pursuant to subsection (b) of K.S.A. 38-1691 and amendments thereto, the detention hearing required by this section shall be held within 24 hours after the juvenile is taken into custody.

(b) *Waiver of detention hearing.* The right of a juvenile to a detention hearing may be waived if the juvenile and the attorney for the juvenile consent in writing to waive the right to a detention hearing and the judge approves the waiver. Whenever the right to a detention hearing has been waived, the juvenile, the attorney for the juvenile or the juvenile's parents

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1 may reassert the right at any time not less than 48 hours prior to the time  
2 scheduled for ~~adjudication~~ trial by submitting a written request to the  
3 judge. Upon request, the judge shall immediately set the time and place  
4 for the hearing, which shall be held not more than 48 hours after the  
5 receipt of the request excluding Saturdays, Sundays and legal holidays.

6 (c) *Notice of hearing.* Whenever it is determined that a detention  
7 hearing is required the court shall immediately set the time and place for  
8 the hearing. Except as otherwise provided by subsection (b)(1) of K.S.A.  
9 38-1691 and amendments thereto, notice of the detention hearing shall  
10 be given at least 24 hours prior to the hearing, unless waived, and shall  
11 be in substantially the following form:

12 (Name of Court)

13 (Caption of Case)

14 NOTICE OF DETENTION HEARING

15 TO:

16 \_\_\_\_\_

17 (Juvenile)

18 \_\_\_\_\_

19 (Father)

20 \_\_\_\_\_

21 (Mother)

22 \_\_\_\_\_

23 (Other having custody-  
24 relationship)

(Address)

25 On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. there will be a  
26 (day) (date)

27 hearing for the court to determine if there is a need for further detention of the above  
28 named juvenile. Each parent or other person having legal custody of the juvenile should be  
29 present at the hearing which will be held at \_\_\_\_\_.

30 You have the right to hire an attorney to represent the above juvenile. Upon failure to  
31 hire an attorney the court will appoint an attorney for the juvenile and the juvenile, parent  
32 or other person having legal custody of the juvenile may be required to repay the court for  
33 the expense of the appointed attorney. The court may order one or both parents to pay child  
34 support.

35 Date: \_\_\_\_\_, 19\_\_\_\_

Clerk of the District Court

36 by \_\_\_\_\_

37 (Seal)

38 REPORT OF SERVICE

39 I certify that I have delivered a true copy of the above notice on the persons above named  
in the manner and at the times indicated below:

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2	Name	Location of Service (other than above)	Manner of Service	Date	Time
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____
5	Date Returned: _____, 19____		_____	_____	_____
6					(Signature)
7					_____
8					(Title)

9 (d) *Oral notice.* When there is insufficient time to give written notice,  
 10 oral notice may be given and is completed upon filing a certificate of oral  
 11 notice with the clerk in substantially the following form:

12 (Name of Court)

13 (Caption of Case)

14 CERTIFICATE OF ORAL NOTICE OF DETENTION HEARING

15 I gave oral notice that the court will hold a hearing at \_\_\_\_\_ o'clock \_\_\_\_m. on \_\_\_\_\_  
 16 19\_\_\_\_, to the persons listed, in the manner and at the times indicated below:

17	Name	Relationship	Date	Time	Method of Communication (in person or telephone)
18	_____	_____	_____	_____	_____
19	_____	_____	_____	_____	_____
20	_____	_____	_____	_____	_____

21 I advised each of the above named persons that:

- 22 (1) The hearing is to determine if the above named juvenile shall be detained;
- 23 (2) each parent or person having legal custody should be present at the hearing;
- 24 (3) they have the right to hire an attorney of their own choice for the juvenile;
- 25 (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
- 26 (5) the juvenile, parent or other person having custody of the juvenile may be required to
- 27 repay the court for the expense of the appointed attorney; and
- 28 (6) the court may order one or both parents to pay child support.

29 \_\_\_\_\_

30 (Signature)

31 \_\_\_\_\_

32 (Name Printed)

33 \_\_\_\_\_

34 (Title)

35 (e) *Hearing, finding, bond.* At the time set for the detention hearing  
 36 if no retained attorney is present to represent the juvenile, the court shall  
 37 appoint an attorney for the juvenile, and may recess the hearing for 24  
 38 hours to obtain attendance of the attorney appointed unless the juvenile  
 39 is detained in jail pursuant to subsection (b)(1) of K.S.A. 38-1691 and  
 40 amendments thereto. At the detention hearing, if the court finds the  
 41 juvenile is dangerous to self or others, the juvenile may be detained in a  
 42 juvenile detention facility or youth residential facility which the court shall  
 43 designate. If the court finds the juvenile is not likely to appear for further

1 proceedings, the juvenile may be detained in a juvenile detention facility  
2 or youth residential facility which the court shall designate or may be  
3 released upon the giving of an appearance bond in an amount specified  
4 by the court and on the conditions the court may impose, in accordance  
5 with the applicable provisions of article 28 of chapter 22 of the Kansas  
6 Statutes Annotated and amendments thereto. In the absence of either  
7 finding, the court shall order the juvenile released or placed in temporary  
8 custody as provided in subsection (f).

9 In determining whether to place a juvenile in a juvenile detention fa-  
10 cility pursuant to this subsection, the court shall consider all relevant  
11 factors, including but not limited to the criteria listed in K.S.A. 38-1640  
12 and amendments thereto. If the court orders the juvenile to be detained  
13 in a juvenile detention facility, the court shall record the specific findings  
14 of fact upon which the order is based.

15 If detention is ordered and the parent was not notified of the hearing  
16 and did not appear and later requests a rehearing, the court shall rehear  
17 the matter without unnecessary delay.

18 (f) *Temporary custody.* If the court determines that it is not necessary  
19 to detain the juvenile but finds that release to the custody of a parent is  
20 not in the best interests of the juvenile, the court may place the juvenile  
21 in the temporary custody of a youth residential facility, the ~~secretary~~ *com-*  
22 *missioner* or some other suitable person willing to accept temporary cus-  
23 tody.

24 Sec. 61. On and after July 1, 1997, K.S.A. 38-1633 is hereby  
25 amended to read as follows: 38-1633. (a) When the respondent appears  
26 in response to a complaint without an attorney, the court shall inform the  
27 respondent of the following:

- 28 (1) The nature of the charges in the complaint;
- 29 (2) the right to hire an attorney of the respondent's own choice;
- 30 (3) the duty of the court to appoint an attorney for the respondent if  
31 no attorney is hired by the respondent or parent; and
- 32 (4) that the court may require the respondent or parents to pay the  
33 expense of a court appointed attorney.

34 Upon request the court shall give the respondent or parent an oppor-  
35 tunity to hire an attorney. If no request is made or the respondent or  
36 parents are financially unable to hire an attorney, the court shall forthwith  
37 appoint an attorney for the respondent. The court shall afford the re-  
38 spondent an opportunity to confer with the attorney before requiring the re-  
39 spondent to plead to the allegations of the complaint.

40 (b) When the respondent appears with an attorney in response to a  
41 complaint, the court shall require the respondent to ~~admit or deny~~ *plead*  
42 *guilty or not guilty* to the allegations stated in the complaint or plead *nolo*  
43 *contendere*, unless there is an application for and approval of a ~~diversion~~

1 *an immediate intervention* program. Prior to making this requirement,  
2 the court shall inform the respondent of the following:

3 (1) The nature of the charges in the complaint;

4 (2) the right of the respondent to be presumed innocent of each  
5 charge;

6 (3) the right to trial without unnecessary delay and to confront and  
7 cross-examine witnesses appearing in support of the allegations of the  
8 complaint;

9 (4) the right to subpoena witnesses;

10 (5) the right of the respondent to testify or to decline to testify; and

11 (6) the ~~dispositional~~ *sentencing* alternatives the court may select as  
12 the result of ~~an adjudication~~ *the juvenile being adjudged to be a juvenile*  
13 *offender.*

14 (c) If the respondent ~~admits~~ *pleads guilty to* the allegations contained  
15 in a complaint or pleads *nolo contendere*, the court shall determine, be-  
16 fore accepting the ~~admission or plea~~ and entering ~~an order of adjudication~~  
17 *a sentence*: (1) That there has been a voluntary waiver of the rights enu-  
18 merated in subsections (b)(2), (3), (4) and (5); and (2) that there is a  
19 factual basis for the ~~admission or the plea of nolo contendere.~~

20 (d) If ~~allegations of the complaint are denied~~ *the respondent pleads*  
21 *not guilty*, the court shall schedule a time and date for trial to the court.

22 Sec. 62. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1635 is  
23 hereby amended to read as follows: 38-1635. (a) Except as provided in  
24 subsection (b), each court may adopt a policy and establish guidelines for  
25 ~~a diversion~~ *an immediate intervention* program by which a respondent  
26 may avoid ~~such an adjudication.~~ *prosecution as a juvenile offender. In*  
27 *addition to the court adopting policies and guidelines for the immediate*  
28 *intervention programs, the court, the county or district attorney and the*  
29 *director of the intake and assessment center, pursuant to a written agree-*  
30 *ment, may develop local programs to:*

31 (1) *Provide for the direct referral of cases by the county or district*  
32 *attorney or the intake and assessment worker, or both, to youth courts,*  
33 *restorative justice centers, citizen review boards, hearing officers, or other*  
34 *local programs as sanctioned by the court.*

35 (2) *Allow intake and assessment workers to issue a summons, as de-*  
36 *finied in subsection (e).*

37 (3) *Allow the intake and assessment centers to directly purchase serv-*  
38 *ices for the juveniles and the juvenile's family.*

39 (4) *Allow intake and assessment workers to direct the release of a*  
40 *juvenile prior to a detention hearing after the completion of the intake*  
41 *and assessment process if the juvenile intake and assessment worker has*  
42 *reason to believe that if released the juvenile will appear for further pro-*  
43 *ceedings and will not be dangerous to self or others.*

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(b) ~~A diversion~~ *An immediate intervention* program shall provide that a respondent is ineligible for such program if the respondent has been previously adjudicated to be a juvenile offender, or faces pending charges as a juvenile offender, for committing acts which, if committed by an adult, would constitute:

(1) A violation of K.S.A. 8-1567 and amendments thereto and the respondent: (A) Has previously participated in ~~diversion an immediate intervention program~~ *instead of prosecution of a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute;* (B) has previously been adjudicated of a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death; or

(2) a violation of an off-grid crime, a ~~severity level 1, 2 or 3 felony~~ *for nondrug crimes or drug severity level 1 or 2 felony for drug crimes person felony, or a felony or misdemeanor committed when the respondent was in possession of a deadly weapon.*

(c) ~~A diversion~~ *An immediate intervention* program may include a stipulation, agreed to by the respondent, the respondent's attorney and the attorney general or county or district attorney, of the facts upon which the charge is based and a provision that if the respondent fails to fulfill the terms of the specific ~~diversion immediate intervention~~ agreement and the ~~adjudication immediate intervention~~ proceedings are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts.

(d) *The court may require the parent or guardian of a juvenile offender to be a part of the immediate intervention program for the juvenile offender.*

(e) *"Summons" means a written order issued by an intake and assessment worker directing that a respondent appear before a designated court at a stated time and place and answer to a charge pending against the respondent.*

Sec. 63. On and after July 1, 1997, K.S.A. 38-1636 is hereby amended to read as follows: 38-1636. (a) *(1) Except as provided further, at any time after commencement of proceedings under this code against a respondent who was: (1) 14 or 15 years of age at the time of the offense or offenses alleged in the complaint, if any such offense is or offenses are a class A or B felony; or, on or after July 1, 1993, an off-grid felony; a nondrug felony crime ranked at severity level 1, 2 or 3 or a drug felony crime ranked at severity level 1 or 2, and prior to entry of an adjudication or the beginning of an evidentiary hearing at which the court may enter*

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1 adjudication as provided in K.S.A. 38-1655, and amendments thereto, or  
 2 (2) 16 or more years of age at the time of the offense alleged in the  
 3 complaint and prior to entry of an adjudication a sentence or the begin-  
 4 ning of an evidentiary hearing at which the court may enter adjudication  
 5 a sentence as provided in K.S.A. 38-1655, and amendments thereto, the  
 6 county or district attorney may file a motion requesting that the court  
 7 authorize prosecution of the respondent as an adult under the applicable  
 8 criminal statute. *The respondent shall be presumed to be a juvenile unless*  
 9 *good cause is shown to prosecute the respondent as an adult.*

10 (2) At any time after commencement of proceedings under this code  
 11 against a respondent who was: (A) 14, 15, 16 or 17 years of age at the  
 12 time of the offense or offenses alleged in the complaint, if any such offense  
 13 (i) if committed by an adult, would be an offgrid offense, a person felony,  
 14 a severity level 1 through 6 felony or any drug severity level 1 or 2 felony;  
 15 or (ii) was committed while in possession of a firearm; or (B) charged  
 16 with a felony or with more than one offense of which one or more is a  
 17 felony after having been adjudicated or convicted in a separate prior ju-  
 18 venile proceeding as having committed an act which would constitute a  
 19 felony if committed by an adult and the adjudications or convictions oc-  
 20 curred prior to the date of the commission of the new act charged and  
 21 prior to the entry of a sentence or the beginning of an evidentiary hearing  
 22 at which the court may enter a sentence as provided in K.S.A. 38-1655,  
 23 and amendments thereto, the county or district attorney may file a motion  
 24 requesting that the court authorize prosecution of the respondent as an  
 25 adult under the applicable criminal statute. *The respondent shall be pre-*  
 26 *sumed to be an adult. The burden of proof is on the respondent to rebut*  
 27 *the presumption.*

28 (3) At any time after commencement of proceedings under this code  
 29 against a respondent and prior to entry of a sentence or the beginning of  
 30 an evidentiary hearing at which the court may enter a sentence as pro-  
 31 vided in K.S.A. 38-1655, and amendments thereto, the county or district  
 32 attorney may file a motion requesting that the court designate the pro-  
 33 ceedings as an extended jurisdiction juvenile prosecution. *If the county or*  
 34 *district attorney files a motion to designate the proceedings as an extended*  
 35 *jurisdiction juvenile prosecution and the respondent was: (A) 14, 15, 16*  
 36 *or 17 years of age at the time of the offense or offenses alleged in the*  
 37 *complaint and if such offense (i) if committed by an adult, would be an*  
 38 *offgrid felony, a person felony, a severity level 1 through 6 felony or any*  
 39 *drug severity level 1 or 2 felony; or (ii) was committed while in possession*  
 40 *of a firearm; or (B) charged with a felony or with more than one offense*  
 41 *of which one or more is a felony after having been adjudicated or con-*  
 42 *vinced in a separate prior juvenile proceeding as having committed an act*  
 43 *which would constitute a felony is committed by an adult and the adju-*

as provided further

[Youth Authority subcommittee discussion]



1 dications or convictions occurred prior to the date of the commission of  
 2 the new act charged, the burden of proof is on the respondent to rebut  
 3 the designation of an extended jurisdiction juvenile prosecution. ~~In all~~  
 4 other motions to designate the proceedings as an extended jurisdiction  
 5 juvenile prosecution, the respondent shall be presumed to be a juvenile  
 6 unless good cause is shown to designate the proceedings as an extended  
 7 jurisdiction juvenile prosecution.]

8 (b) The motion may also contain a statement that the prosecuting  
 9 attorney will introduce evidence of the offenses alleged in the complaint  
 10 and request that, on hearing the motion and authorizing prosecution as  
 11 an adult or designating the proceedings as an extended jurisdiction ju-  
 12 venile prosecution under this code, the court may make the findings re-  
 13 quired in a preliminary examination provided for in K.S.A. 22-2902, and  
 14 amendments thereto, and the finding that there is no necessity for further  
 15 preliminary examination.

16 (c) Upon receiving a motion to authorize prosecution as an adult as  
 17 established in subsection (a), the court shall set a time and place for  
 18 hearing on the motion. The court shall give notice of the hearing to the  
 19 respondent, each parent of the respondent, if service is possible, and the  
 20 attorney representing the respondent. The motion shall be heard and  
 21 determined prior to any further proceedings on the complaint.

22 (d) If the respondent fails to appear for hearing on a motion to au-  
 23 thorize prosecution as an adult as established in subsection (a) after having  
 24 been properly served with notice of the hearing, the court may hear and  
 25 determine the motion in the absence of the respondent. If the court is  
 26 unable to obtain service of process and give notice of the hearing, the  
 27 court may hear and determine the motion in the absence of the respon-  
 28 dent after having given notice of the hearing once a week for two con-  
 29 secutive weeks in a newspaper authorized to publish legal notices in the  
 30 county where the hearing will be held.

31 (e) In determining whether or not prosecution as an adult should be  
 32 authorized or designating the proceeding as an extended jurisdiction ju-  
 33 venile prosecution, the court shall consider each of the following factors:  
 34 (1) The seriousness of the alleged offense and whether the protection of  
 35 the community requires prosecution as an adult or designating the pro-  
 36 ceeding as an extended jurisdiction juvenile prosecution; (2) whether the  
 37 alleged offense was committed in an aggressive, violent, premeditated or  
 38 willful manner; (3) whether the offense was against a person or against  
 39 property, greater weight being given to offenses against persons, espe-  
 40 cially if personal injury resulted; (4) the number of alleged offenses un-  
 41 adjudicated and pending against the respondent; (5) the previous history  
 42 of the respondent, including whether the respondent had been adjudi-  
 43 cated a delinquent or miscreant under the Kansas juvenile code or a

[Youth Authority subcommittee discussion]

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juvenile offender under this code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence; (6) the sophistication or maturity of the respondent as determined by consideration of the respondent's home, environment, emotional attitude, pattern of living or desire to be treated as an adult; (7) whether there are facilities or programs available to the court which are likely to rehabilitate the respondent prior to the expiration of the court's jurisdiction under this code; and (8) whether the interests of the respondent or of the community would be better served by criminal prosecution or *extended jurisdiction juvenile prosecution*. The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection shall not in and of itself be determinative of the issue. Subject to the provisions of K.S.A. 38-1653, and amendments thereto, written reports and other materials relating to the respondent's mental, physical, educational and social history may be considered by the court.

(f) (1) The court may authorize prosecution as an adult upon completion of the hearing if the court finds that the respondent was: (1) 14 or 15 years of age at the time of the alleged commission of the offense, if the offense is a class A or B felony, and was committed before July 1, 1993, and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged;

(2) 14 or 15 years of age at the time of the alleged commission of the offense, if the offense is an off-grid felony, a nondrug severity level 1, 2 or 3 felony or a drug level 1 or 2 felony, and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged; or

(3) 16 or more years of age at the time of the alleged commission of the offense and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged. In that case, the court shall direct the respondent be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(2) The court may designate the proceeding as an *extended jurisdiction juvenile prosecution upon completion of the hearing if the court finds that there is substantial evidence that the respondent should be prosecuted under an extended jurisdiction juvenile prosecution*.

(g) If the respondent is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the respondent, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902,

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and appearing in court will result in undue hardship to such parent or guardian; or

(C) resides in Kansas, but is outside of the state at the time of the juvenile proceeding for reasons other than avoiding appearance before the court and appearing in court will result in undue hardship to such parent or guardian.

(2) "Parent" means and includes a natural parent who has sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. Parent does not include a person whose parental rights have been terminated pursuant to law.

(d) If the parent or guardian of any juvenile cannot be found or fails to appear, the court may proceed with the case without the presence of such parent or guardian.

(e) This section shall be part of and supplemental to the Kansas juvenile offenders justice code.

Sec. 69. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1652 is hereby amended to read as follows: 38-1652. (a) ~~If the respondent was 16 or more years of age at the time of the alleged offense, the hearing~~ Except as provided in subsection (b), all court proceedings held pursuant to the Kansas juvenile justice code shall be open to the public.

(b) ~~If the respondent was under 16 years of age at the time of the alleged offense court determines that opening the court proceedings to the public is not in the best interest of the respondent,~~ the court may exclude all persons except the respondent, the respondent's parents, attorneys for interested parties, officers of the court, the witness testifying and the victim, as defined in subsection (b) of K.S.A. 74-7333 and amendments thereto or such members of the victim's family, as defined in subsection (b)(2) of K.S.A. 74-7335 and amendments thereto as the court deems appropriate. Upon agreement of all interested parties, the court shall allow other persons to attend the hearing unless the court finds the presence of the persons would be disruptive to the proceedings.

Sec. 70. On and after July 1, 1997, K.S.A. 38-1653 is hereby amended to read as follows: 38-1653. In all ~~adjudicatory~~ hearings pursuant to the Kansas juvenile justice code, the rules of evidence of the code of civil procedure shall apply. The judge presiding at the hearing shall not consider, read or rely upon any report not properly admitted according to the rules of evidence.

Sec. 71. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1655 is hereby amended to read as follows: 38-1655. If the court finds that the evidence fails to prove an offense charged or an included offense as defined in subsection (2) of K.S.A. 21-3107 and amendments thereto, the court shall enter an order dismissing the charge.

If the court finds that the respondent committed the offense charged

request of an interested party, shall hear additional evidence as to proposals for reasonable and appropriate ~~disposition~~ sentencing of the case.

2  
3 Sec. 76. On and after July 1, 1997, K.S.A. 38-1662 is hereby  
4 amended to read as follows: 38-1662. (a) *Psychological or emotional.* Fol-  
5 lowing ~~an adjudication~~ *the juvenile being adjudged to be a juvenile of-*  
6 *fender* under this code the court may order an evaluation and written  
7 report of the psychological or emotional development or needs of the  
8 juvenile offender. The court may refer the juvenile offender to a state  
9 institution for the evaluation if the ~~secretary~~ *commissioner* advises the  
10 court that the facility is a suitable place to care for, treat or evaluate the  
11 juvenile offender and that space is available. The expenses of transpor-  
12 tation to and from the state facility may be paid as a part of the expenses  
13 of the proceedings. The juvenile offender may be referred to a mental  
14 health center or a qualified professional for the evaluation, and the ex-  
15 penses of the evaluation may be considered as expenses of the proceed-  
16 ings and assessed as provided in this code. If the court orders an evalu-  
17 ation as provided in this section, a parent of the juvenile offender shall  
18 have the right to obtain an independent evaluation at the expense of the  
19 parent.

20 (b) *Medical.* Following ~~an adjudication~~ *the juvenile being adjudged*  
21 *to be a juvenile offender* under this code, the court may order an exami-  
22 nation and report of the medical condition and needs of the juvenile  
23 offender who is the subject of the proceedings. The court may also order  
24 a report from any physician who has been attending the juvenile offender  
25 stating the diagnosis, condition and treatment afforded the juvenile of-  
26 fender.

27 (c) *Educational.* The court may order the chief administrative officer  
28 of the school which the juvenile offender attends or attended to provide  
29 to the court information that is readily available which the school officials  
30 feel would properly indicate the educational needs of the juvenile of-  
31 fender. The order may direct that the school conduct an educational  
32 needs assessment of the juvenile offender and send a report thereof to  
33 the court. The educational needs assessment may include a meeting in-  
34 volving any of the following: (1) The juvenile offender's parents, (2) the  
35 juvenile offender's teacher or teachers, (3) the school psychologist, (4) a  
36 school special services representative, (5) a representative of the ~~secretary~~  
37 *commissioner*, (6) the juvenile offender's C.A.S.A., (7) the juvenile offen-  
38 der's foster parents or legal guardian and (8) other persons that the chief  
39 administrative officer of the school, or the officer's designee, deems ap-  
40 propriate.

41 Sec. 77. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1663 is  
42 hereby amended to read as follows: 38-1663. (a) When a respondent has  
43 been adjudged to be a juvenile offender, the judge may select from the

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1 following alternatives:

2 (1) Place the juvenile offender on probation for a fixed period, subject  
3 to the terms and conditions the court deems appropriate, including a  
4 requirement of making restitution as required by subsection (d).

5 (2) Place the juvenile offender in the custody of a parent or other  
6 suitable person, subject to the terms and conditions the court orders,  
7 including a requirement of making restitution as required by subsection  
8 (d).

9 (3) Place the juvenile offender in the custody of a youth residential  
10 facility, subject to the terms and conditions the court orders.

11 (4) Place the juvenile offender in the custody of the ~~secretary~~ *com-*  
12 *missioner*.

13 (5) Impose any appropriate combination of subsections (a)(1) and (2),  
14 subsection (a)(3) or subsection (a)(4) and make other orders directed to  
15 the juvenile offender as the court deems appropriate.

16 (6) Commit the juvenile offender, if 13 years of age or older, to a  
17 ~~state youth center~~ *juvenile correctional facility* if the juvenile offender:

18 (A) Has had a ~~previous adjudication~~ *previously been adjudged* as a  
19 juvenile offender under this code or as a delinquent or miscreant under  
20 the Kansas juvenile code; or

21 (B) has been adjudicated a juvenile offender as a result of having  
22 committed an act which, if done by a person 18 years of age or over,  
23 would constitute a class A, B or C felony as defined by the Kansas criminal  
24 code or, if done on or after July 1, 1993, would constitute an off-grid  
25 crime or a nondrug crime ranked in severity level 1 through 5 or a drug  
26 crime ranked in severity level 1 through 3.

27 (7) Place the juvenile offender under a house arrest program admin-  
28 istered by the court pursuant to K.S.A. 21-4603b and amendments  
29 thereto.

30 (b) (1) In addition to any other order authorized by this section, the  
31 court may order the: (A) Juvenile offender and the parents of the juvenile  
32 offender to:

33 ~~(A)~~ (i) Attend counseling sessions as the court directs; or

34 ~~(B)~~ (ii) participate in mediation as the court directs. Participants in  
35 such mediation may include, but shall not be limited to, the victim, the  
36 juvenile offender and the juvenile offender's parents. Mediation shall not  
37 be mandatory for the victim; or

38 ~~(B)~~ *parents of the juvenile offender to participate in parenting classes.*

39 (2) Upon entering an order requiring a juvenile offender's parent to  
40 attend counseling sessions or mediation, the court shall give the parent  
41 notice of the order. The notice shall inform the parent of the parent's  
42 right to request a hearing within 10 days after entry of the order and the  
43 parent's right to employ an attorney to represent the parent at the hearing

1 or, if the parent is financially unable to employ an attorney, the parent's  
2 right to request the court to appoint an attorney to represent the parent.  
3 If the parent does not request a hearing within 10 days after entry of the  
4 order, the order shall take effect at that time. If the parent requests a  
5 hearing, the court shall set the matter for hearing and, if requested, shall  
6 appoint an attorney to represent the parent. The expense and fees of the  
7 appointed attorney may be allowed and assessed as provided by K.S.A.  
8 38-1606 and amendments thereto.

9 (3) The costs of any counseling or mediation may be assessed as ex-  
10 penses in the case. No mental health center shall charge a fee for court-  
11 ordered counseling greater than that the center would have charged the  
12 person receiving the counseling if the person had requested counseling  
13 on the person's own initiative. No mediator shall charge a fee for court-  
14 ordered mediation greater than that the mediator would have charged  
15 the person participating in the mediation if the person had requested  
16 mediation on the person's own initiative.

17 (c) (1) If a respondent has been adjudged to be a juvenile offender,  
18 the court, in addition to any other order authorized by this section, may  
19 suspend the juvenile offender's driver's license or privilege to operate a  
20 motor vehicle on the streets and highways of this state. The duration of  
21 the suspension ordered by the court shall be for a definite time period to  
22 be determined by the court. Upon suspension of a license pursuant to  
23 this subsection, the court shall require the juvenile offender to surrender  
24 the license to the court, which shall transmit the license to the division  
25 of motor vehicles of the department of revenue, to be retained until the  
26 period of suspension expires. At that time, the licensee may apply to the  
27 division for return of the license. If the license has expired, the juvenile  
28 offender may apply for a new license, which shall be issued promptly  
29 upon payment of the proper fee and satisfaction of other conditions es-  
30 tablished by law for obtaining a license unless another suspension or rev-  
31 ocation of the juvenile offender's privilege to operate a motor vehicle is  
32 in effect. As used in this subsection, "highway" and "street" have the  
33 meanings provided by K.S.A. 8-1424 and 8-1473, and amendments  
34 thereto. Any respondent who is adjudged to be a juvenile offender who  
35 does not have a driver's license may have such juvenile offender's driving  
36 privileges revoked. No Kansas driver's license shall be issued to a juvenile  
37 offender whose driving privileges have been revoked pursuant to this  
38 section for a definite time period to be determined by the court.

39 (2) In lieu of suspending the driver's license or privilege to operate  
40 a motor vehicle on the highways of this state of any respondent adjudged  
41 to be a juvenile offender, as provided in subsection (c)(1), the court in  
42 which such juvenile offender was adjudged to be a juvenile offender may  
43 enter an order which places conditions on such juvenile offender's priv-

1 illege of operating a motor vehicle on the highways of this state, a certified  
2 copy of which such juvenile offender shall be required to carry any time  
3 such juvenile offender is operating a motor vehicle on the highways of  
4 this state. Any such order shall prescribe the duration of the conditions  
5 imposed and shall specify that such duration shall be for a definite time  
6 period to be determined by the court. Upon entering an order restricting  
7 a juvenile offender's license hereunder, the court shall require such ju-  
8 venile offender to surrender such juvenile offender's driver's license to  
9 the court who shall cause it to be transmitted to the division of vehicles,  
10 together with a copy of the order. Upon receipt thereof, the division of  
11 vehicles shall issue without charge a driver's license which shall indicate  
12 on its face that conditions have been imposed on such juvenile offender's  
13 privilege of operating a motor vehicle and that a certified copy of the  
14 order imposing such conditions is required to be carried by the juvenile  
15 offender for whom the license was issued any time such juvenile offender  
16 is operating a motor vehicle on the highways of this state. If the juvenile  
17 offender convicted is a nonresident, the court shall cause a copy of the  
18 order to be transmitted to the division and the division shall forward a  
19 copy of it to the motor vehicle administrator of such juvenile offender's  
20 state of residence. Such court shall furnish to any juvenile offender whose  
21 driver's license has had conditions imposed on it under this section a copy  
22 of the order, which shall be recognized as a valid Kansas driver's license  
23 until such time as the division shall issue the restricted license provided  
24 for in this subsection. Upon expiration of the period of time for which  
25 conditions are imposed pursuant to this subsection, the licensee may ap-  
26 ply to the division for the return of the license previously surrendered by  
27 such licensee. In the event such license has expired, such juvenile of-  
28 fender may apply to the division for a new license, which shall be issued  
29 immediately by the division upon payment of the proper fee and satis-  
30 faction of the other conditions established by law, unless such juvenile  
31 offender's privilege to operate a motor vehicle on the highways of this  
32 state has been suspended or revoked prior thereto. If any juvenile of-  
33 fender shall violate any of the conditions imposed under this subsection,  
34 such juvenile offender's driver's license or privilege to operate a motor  
35 vehicle on the highways of this state shall be revoked for a period as  
36 determined by the court in which such juvenile offender is convicted of  
37 violating such conditions.

38 (d) Whenever a juvenile offender is placed pursuant to subsection  
39 (a)(1) or (2), the court, unless it finds compelling circumstances which  
40 would render a plan of restitution unworkable, shall order the juvenile  
41 offender to make restitution to persons who sustained loss by reason of  
the offense. The restitution shall be made either by payment of an amount  
fixed by the court or by working for the persons in order to compensate

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for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(e) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be directly related to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(f) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudged to be a juvenile offender by reason of a violation of the uniform controlled substances act (K.S.A. 65-4101 et seq. and amendments thereto) or K.S.A. 41-719, 41-727, ~~41-804, 41-2719, 41-2720~~ 65-4152, 65-4153, 65-4154 or 65-4155 and amendments thereto,

or K.S.A. 1995 Supp. 8-1599

the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation, except that such evaluation may be waived by the court if the court finds that the juvenile offender has successfully completed an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, ~~subsequent to~~ the offender's arrest on this offense. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary or the department of social and rehabilitation services commissioner or the juvenile justice authority. The court may require the parent or guardian of the juvenile offender to attend such program with the juvenile of-

within 12 months of

If such evaluation occurred more than 12 months after the offender's arrest on this offense, the court shall order the juvenile offender to resubmit to and complete such evaluation and program as provided herein.

[KS Community Alcohol Safety Action Project Coordinators Assn.]



1 *fender.*

2 (g) The board of county commissioners of a county may provide by  
3 resolution that the parents or guardians of any juvenile offender placed  
4 under a house arrest program pursuant to subsection (a)(7) shall be re-  
5 quired to pay to the county the cost of such house arrest program. The  
6 board of county commissioners shall further prepare a sliding financial  
7 scale based on the ability of the parents to pay for such a program.

8 (h) In addition to any other order authorized by this section, if child  
9 support has been requested and the parent or parents have a duty to  
10 support the respondent the court may, and when custody is placed with  
11 the ~~secretary~~ commissioner shall, order one or both parents to pay child  
12 support. The court shall determine, for each parent separately, whether  
13 the parent is already subject to an order to pay support for the respondent.  
14 If the parent is not presently ordered to pay support for the respondent  
15 and the court has personal jurisdiction over the parent, the court shall  
16 order the parent to pay child support in an amount determined under  
17 K.S.A. 38-16,117 and amendments thereto. Except for good cause shown,  
18 the court shall issue an immediate income withholding order pursuant to  
19 K.S.A. 23-4,105 *et seq.* and amendments thereto for each parent ordered  
20 to pay support under this subsection, regardless of whether a payor has  
21 been identified for the parent. A parent ordered to pay child support  
22 under this subsection shall be notified, at the hearing or otherwise, that  
23 the child support order may be registered pursuant to K.S.A. 38-16,119  
24 and amendments thereto. The parent shall also be informed that, after  
25 registration, the income withholding order may be served on the parent's  
26 employer without further notice to the parent and the child support order  
27 may be enforced by any method allowed by law. Failure to provide this  
28 notice shall not affect the validity of the child support order.

29 (i) Any order issued by the judge pursuant to this section shall be in  
30 effect immediately upon entry into the judge's minutes.

31 Sec. 78. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1664 is  
32 hereby amended to read as follows: 38-1664. (a) Prior to placing a juvenile  
33 offender in the custody of the ~~secretary~~ commissioner and recommending  
34 out-of-home placement, the court shall consider and determine that,  
35 where consistent with the need for protection of the community:

36 (1) Reasonable efforts have been made to prevent or eliminate the  
37 need for out-of-home placement or reasonable efforts are not possible  
38 due to an emergency threatening the safety of the juvenile offender or  
39 the community; and

40 (2) out-of-home placement is in the best interests of the juvenile of-  
fender.

41 (b) When a juvenile offender has been placed in the custody of the  
42 ~~secretary~~ commissioner, the ~~secretary~~ commissioner shall notify the court

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1 in writing of the initial placement of the juvenile offender as soon as the  
 2 placement has been accomplished. The court shall have no power to di-  
 3 rect a specific placement by the ~~secretary commissioner~~, but may make  
 4 recommendations to the ~~secretary commissioner~~. The ~~secretary commis-~~  
 5 ~~sioner~~ may place the juvenile offender in an institution operated by the  
 6 ~~secretary commissioner~~, a youth residential facility or a community mental  
 7 health center. If the court has recommended an out-of-home placement,  
 8 the ~~secretary commissioner~~ may not return the juvenile offender to the  
 9 home from which removed without first notifying the court of the plan.

10 (c) During the time a juvenile offender remains in the custody of the  
 11 ~~secretary commissi~~oner, the ~~secretary commissioner~~ shall report to the  
 12 court at least each six months as to the current living arrangement and  
 13 social and mental development of the juvenile offender. If the juvenile  
 14 offender is placed outside the juvenile offender's home, a hearing shall  
 15 be held not more than 18 months after the juvenile offender is placed  
 16 outside the juvenile offender's home and every 12 months thereafter. If  
 17 the juvenile offender is placed in foster care, the foster parent or parents  
 18 shall submit to the court, at least every six months, a report in regard to  
 19 the juvenile offender's adjustment, progress and condition. The ~~depart-~~  
 20 ~~ment of social and rehabilitation services juvenile justice authority~~ shall  
 21 notify the foster parent or parents of the foster parents' or parent's duty  
 22 to submit such report, on a form provided by the ~~department of social~~  
 23 ~~and rehabilitation services juvenile justice authority~~, at least two weeks  
 24 prior to the date when the report is due, and the name of the judge and  
 25 the address of the court to which the report is to be submitted. Such  
 26 report shall be confidential and shall only be reviewed by the court and  
 27 the child's attorney.

28 Sec. 79. On and after July 1, 1997, K.S.A. 38-1665 is hereby  
 29 amended to read as follows: 38-1665. (a) When a juvenile offender has  
 30 been placed in a youth residential facility or in the custody of a person  
 31 other than a parent, the court may cause the juvenile offender to be  
 32 brought before it, together with the person or persons in whose custody  
 33 the juvenile offender may be. If it appears that a continuance of the  
 34 custody or placement is not in the best interests of the juvenile offender,  
 35 the court may rescind and set aside the order giving custody and make a  
 36 further ~~dispositional~~ order for the custody of the juvenile offender as is  
 37 appropriate, except that a child support order which has been registered  
 38 under K.S.A. 38-16,119 and amendments thereto may only be modified  
 39 pursuant to K.S.A. 38-16,119 and amendments thereto.

40 (b) At any time after the entry of an ~~authorized disposition order~~  
 41 awarding custody of a juvenile offender to a person other than a parent,  
 42 the court on its own motion, or the ~~secretary commissioner~~, the attorney  
 43 for the juvenile offender or any party or parent may file a motion with

(d) The report made by foster parents and provided by the  
 the commissioner of juvenile justice, pursuant to this section, shall  
 be in substantially the following form:

REPORT FROM FOSTER PARENTS  
 CONFIDENTIAL

Child's Name	Current Address
--------------	-----------------

Parent's Name	Foster Parents
---------------	----------------

Primary Social Worker

Please circle the word which best describes the child's progress

- Child's adjustment in the home  
 excellent good satisfactory needs improvement
- Child's interaction with foster parents and family members  
 excellent good satisfactory needs improvement
- Child's interaction with others  
 excellent good satisfactory needs improvement
- Child's respect for property  
 excellent good satisfactory needs improvement
- Physical and emotional condition of the child  
 excellent good satisfactory needs improvement
- Social worker's interaction with the child and foster family  
 excellent good satisfactory needs improvement
- School status of child:

	School			Grade		
Grades	Good	Fair	Poor	Good	Fair	Poor
Attendance	Good	Fair	Poor	Good	Fair	Poor
Behavior	Good	Fair	Poor	Good	Fair	Poor

8. If visitation with parents has occurred, describe the frequency of visits, with whom,  
 supervised or unsupervised, and any significant events which have occurred. \_\_\_\_\_

9. Your opinion regarding the overall adjustment, progress and condition of the child:  
 \_\_\_\_\_

10. Do you have any special concerns or comments with regard to the child not addressed  
 by this form? Please specify: \_\_\_\_\_

[SRS suggestion]

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the court for a rehearing on the issue of custody. Upon receipt of the motion, the court shall fix a time and place for hearing and shall notify each party of the time and place. After the hearing, the court may enter any ~~authorized disposition sentence~~, except that a child support order which has been registered under K.S.A. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 38-16,119 and amendments thereto. If the court determines that it is in the best interests of the juvenile offender to be returned to the custody of the parent or parents, the court shall so order.

(c) Any time within 60 days after a court has committed a juvenile offender to a ~~state youth center~~ *juvenile correctional facility* the court may modify the ~~dispositional order sentence~~ and enter any other ~~authorized disposition sentence~~, except that a child support order which has been registered under K.S.A. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 38-16,119 and amendments thereto.

Sec. 80. On and after July 1, 1997, K.S.A. 38-1666 is hereby amended to read as follows: 38-1666. If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement that would not constitute grounds for filing a new complaint, the county or district attorney, the victim of the offense committed by the offender, the assigned court services officer or the person in whom care, custody and control of the juvenile offender has been placed may file a report with the court describing the alleged violation and requesting a hearing thereon. The court shall then proceed in the same manner and under the same procedure as for a hearing on a complaint. If the court finds at the hearing that the juvenile offender violated a condition of probation or placement, the court may extend or modify the terms of probation or placement or enter another ~~authorized disposition sentence~~, except that a child support order which has been registered under K.S.A. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 38-16,119 and amendments thereto.

Sec. 81. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1668 is hereby amended to read as follows: 38-1668. (a) A parent, guardian or person with whom a juvenile resides may be ordered by the court to *report any probation violations*, aid in enforcing terms and conditions of probation or other orders of the court or ~~both any of the above~~. Any person placed under an order to *report any probation violations*, aid in enforcing terms and conditions of probation or other orders of the court or ~~both any of the above~~ who fails to do so may be proceeded against for indirect contempt of court as provided in K.S.A. 20-1204a *et seq.*, and amendments thereto.

(b) This section shall be part of and supplemental to the Kansas juvenile offenders justice code.

2 Sec. 82. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1671 is  
3 hereby amended to read as follows: 38-1671. (a) *Actions by the court.*  
4 When a juvenile offender has been committed to a ~~state youth center~~  
5 ~~juvenile correctional facility~~, the clerk of the court shall forthwith notify  
6 the ~~secretary commissioner~~ of the commitment and provide the ~~secretary~~  
7 ~~commissioner~~ with a certified copy of the complaint, the journal entry of  
8 the ~~adjudicatory hearing and the dispositional order trial and the sentence.~~  
9 The court shall also forward those items from the social file which could  
10 relate to a rehabilitative program. If the court wishes to recommend  
11 placement of the juvenile offender in a specific ~~state youth center juvenile~~  
12 ~~correctional facility~~, the recommendation shall be included in the ~~dis-~~  
13 ~~positional order sentence.~~ After the court has received notice of the ~~state~~  
14 ~~youth center juvenile correctional facility~~ designated as provided in sub-  
15 section (b), it shall be the duty of the court or the sheriff of the county  
16 to deliver the juvenile offender to the facility at the time designated by  
17 the ~~secretary commissioner~~.

17 (b) *Actions by the secretary commissioner.* (1) After receiving notice  
18 of commitment as provided in subsection (a), the ~~secretary commissioner~~  
19 shall give the committing court notice designating the ~~state youth center~~  
20 ~~juvenile correctional facility~~ to which the juvenile offender is to be ad-  
21 mitted and the date of the admission.

22 (2) Except as provided by K.S.A. 38-1691, and amendments thereto,  
23 the ~~secretary commissioner~~ may make any temporary out-of-home place-  
24 ment the ~~secretary commissioner~~ deems appropriate pending placement  
25 of the juvenile offender in a ~~state youth center juvenile correctional fa-~~  
26 ~~cility~~, and the ~~secretary commissioner~~ shall notify the court, local law  
27 enforcement agency and school district in which the juvenile will be re-  
28 siding if the juvenile is still required to attend a secondary school of that  
29 placement.

30 (c) *Transfers.* During the time a juvenile offender remains committed  
31 to a ~~state youth center juvenile correctional facility~~, the ~~secretary com-~~  
32 ~~missioner~~ may transfer the juvenile offender from one ~~state youth center~~  
33 ~~juvenile correctional facility~~ to another.

34 Sec. 83. On and after July 1, 1997, K.S.A. 38-1672 is hereby  
35 amended to read as follows: 38-1672. (a) Except as provided in subsection  
36 (b), if a complaint is filed alleging a new offense by a juvenile offender  
37 who is under commitment to or placement in a ~~state youth center juvenile~~  
38 ~~correctional facility~~, the juvenile offender shall be forthwith returned to  
39 the ~~state youth center juvenile correctional facility~~ or the custody of the  
40 ~~secretary commissioner~~ to be detained in a place the ~~secretary commis-~~  
41 ~~sioner~~ directs during the pendency. The juvenile offender may not be  
42 either released or detained in any other facility or place. The juvenile  
43 offender shall be allowed to confer with the juvenile offender's attorney

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1 and the ~~secretary~~ *commissioner* shall release the juvenile offender to the  
2 custody of the court at the times required for ~~adjudication or disposition~~  
3 *trial or sentencing*. If the juvenile offender is again adjudged to be a  
4 juvenile offender, the juvenile offender shall again be committed to a  
5 ~~state youth center~~ *juvenile correctional facility*.

6 (b) The provisions of subsection (a) shall not apply if a motion is filed  
7 requesting authorization to prosecute the juvenile offender as an adult.  
8 The juvenile offender may be detained in a juvenile detention facility  
9 until the hearing on the motion. If the court hearing the motion fails to  
10 authorize prosecution of the juvenile offender as an adult, the juvenile  
11 offender shall then be returned to the ~~state youth center~~ *juvenile correc-*  
12 *tional facility* for further proceedings as provided in subsection (a).

13 Sec. 84. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1673 is  
14 hereby amended to read as follows: 38-1673. (a) When a juvenile offender  
15 has satisfactorily completed the program at the ~~state youth center~~ *juvenile*  
16 *correctional facility* to which the juvenile offender was committed or  
17 placed, the person in charge of the ~~state youth center~~ *juvenile correctional*  
18 *facility* shall have authority to release the juvenile offender under appro-  
19 priate conditions and for a specified period of time.

20 (b) At least 15 days prior to releasing a juvenile offender as provided  
21 in subsection (a), the person in charge of the ~~state youth center~~ *juvenile*  
22 *correctional facility* shall notify the committing court of the date and  
23 conditions upon which it is proposed the juvenile offender is to be re-  
24 leased.

25 (c) Upon receipt of the notice required by subsection (b), the court  
26 shall review the proposed conditions of release and may recommend  
27 modifications or additions to the conditions.

28 (d) If, during the conditional release, the juvenile offender is not re-  
29 turning to the county from which committed, the person in charge of the  
30 ~~state youth center~~ *juvenile correctional facility* shall also give notice to  
31 the court of the county in which the juvenile offender is to be residing.

32 (e) To assure compliance with conditions of release from a ~~state youth~~  
33 ~~center~~ *juvenile correctional facility*, the ~~secretary~~ *commissioner* shall have  
34 the authority to prescribe the manner in which compliance with the con-  
35 ditions shall be supervised. When requested by the ~~secretary~~ *commis-*  
36 *sioner*, the appropriate court may assist in supervising compliance with  
37 the conditions of release during the term of the conditional release. *The*  
38 *commissioner may require the parents or guardians of the juvenile of-*  
39 *fender to cooperate and participate with the conditions of release.*

40 (f) The ~~department of social and rehabilitation services~~ *juvenile jus-*  
41 *tice authority* shall notify at least 45 days prior to the discharge of the  
42 juvenile offender the county or district attorney of the county where the  
43 offender was adjudicated a juvenile offender of the release of such ju-

1 juvenile offender, if such juvenile offender's offense would have constituted  
 2 a class A, B or C felony before July 1, 1993, or an off-grid felony, a  
 3 nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime  
 4 ranked at severity level 1, 2 or 3, on or after July 1, 1993, if committed  
 5 by an adult. The county or district attorney shall give written notice at  
 6 least 30 days prior to the release of the juvenile offender to: (1) Any victim  
 7 of the juvenile offender's crime who is alive and whose address is known  
 8 to the court or, if the victim is deceased, to the victim's family if the  
 9 family's address is known to the court; (2) the local law enforcement  
 10 agency; and (3) the school district in which the juvenile offender will be  
 11 residing if the juvenile is still required to attend a secondary school. Fail-  
 12 ure to notify pursuant to this section shall not be a reason to postpone a  
 13 release. Nothing in this section shall create a cause of action against the  
 14 state or county or an employee of the state or county acting within the  
 15 scope of the employee's employment as a result of the failure to notify  
 16 pursuant to this section.

17 Sec. 85. On and after July 1, 1997, K.S.A. 38-1674 is hereby  
 18 amended to read as follows: 38-1674. If it is alleged that a juvenile of-  
 19 fender who has been conditionally released from a ~~state youth center~~  
 20 *juvenile correctional facility* has failed to obey the specified conditions of  
 21 release, any social worker or court services officer assigned to supervise  
 22 compliance with the conditions of release or the county or district attor-  
 23 ney may file a motion with the committing court or the court of the county  
 24 in which the juvenile offender is residing. The motion shall describe the  
 25 alleged violation and request a hearing thereon. The court shall then  
 26 proceed in the same manner and under the same procedure as provided  
 27 for a hearing on a complaint filed under this code. If the court finds that  
 28 a condition of release has been violated, the court may impose additional  
 29 conditions of release that the court considers appropriate, extend the term  
 30 of the conditional release or order that the juvenile offender be returned  
 31 to the ~~state youth center~~ *juvenile correctional facility* until discharged by  
 32 the superintendent in charge thereof.

33 Sec. 86. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1675 is  
 34 hereby amended to read as follows: 38-1675. (a) ~~Except as provided fur-~~  
 35 ~~ther~~ when a juvenile offender has reached the age of ~~21~~ 23 years or has  
 36 successfully completed the program at a ~~state youth center~~ *juvenile cor-*  
 37 *rectional facility* together with any conditional release following the pro-  
 38 gram, the superintendent in charge of the ~~state youth center~~ *juvenile*  
 39 *correctional facility* shall discharge the juvenile offender from any further  
 40 obligation under the commitment. The discharge shall operate as a full  
 41 and complete release from any obligations imposed on the juvenile of-  
 42 fender arising from the offense for which the juvenile offender was com-  
 43 mitted.

Unless a juvenile is sentenced pursuant to an extended jurisdiction juvenile  
 prosecution upon court order, and the commissioner transfers the juvenile  
 offender to the custody of the secretary of corrections,

[OJA suggestion]

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1 (b) ~~If the juvenile is sentenced pursuant to an extended jurisdiction~~  
2 ~~juvenile prosecution, upon court order, the commissioner may transfer~~  
3 ~~the juvenile offender to the custody of the secretary of corrections.~~

4 ~~(c) The department of social and rehabilitation services juvenile jus-~~  
5 ~~tice authority shall notify at least 45 days prior to the discharge of the~~  
6 ~~juvenile offender, the county or district attorney of the county where the~~  
7 ~~offender was adjudicated a juvenile offender of the discharge of such~~  
8 ~~juvenile offender, if such juvenile offender's offense would have consti-~~  
9 ~~tuted a class A, B or C felony before July 1, 1993, or an off-grid felony,~~  
10 ~~a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime~~  
11 ~~ranked at severity level 1, 2 or 3, on or after July 1, 1993, if committed~~  
12 ~~by an adult. The county or district attorney shall give written notice at~~  
13 ~~least 30 days prior to the discharge of the juvenile offender to: (1) Any~~  
14 ~~victim of the juvenile offender's crime who is alive and whose address is~~  
15 ~~known to the court or, if the victim is deceased, to the victim's family if~~  
16 ~~the family's address is known to the court; (2) the local law enforcement~~  
17 ~~agency; and (3) the school district in which the juvenile offender will be~~  
18 ~~residing if the juvenile is still required to attend a secondary school. Fail-~~  
19 ~~ure to notify pursuant to this section shall not be a reason to postpone a~~  
20 ~~discharge. Nothing in this section shall create a cause of action against~~  
21 ~~the state or county or an employee of the state or county acting within~~  
22 ~~the scope of the employee's employment as a result of the failure to notify~~  
23 ~~pursuant to this section.~~

At

, the juvenile justice authority shall notify the court and

[OJA suggestion]

24 Sec. 87. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1676 is  
25 hereby amended to read as follows: 38-1676. (a) If a juvenile offender  
26 has committed an act which, if committed by a person 18 years of age or  
27 over, would constitute a class A or B felony, if the offense was committed  
28 before July 1, 1993, or an off-grid felony, a nondrug crime ranked at  
29 severity level 1, 2 or 3 or a drug crime ranked at severity level 1 or 2, if  
30 the offense was committed on or after July 1, 1993, and such juvenile  
31 offender is to be released, 30 days before release, the ~~secretary of social~~  
32 ~~and rehabilitation services commissioner~~ shall notify the county attorney  
33 or district attorney, the court, the local law enforcement agency, and the  
34 school district in which the juvenile offender will be residing if the ju-  
35 venile is still required to attend a secondary school, of such pending re-  
36 lease. The county attorney, district attorney or the court on its own motion  
37 may file a motion with the court for a hearing to determine if the juvenile  
38 offender should be retained in the custody of the ~~secretary commissioner,~~  
39 pursuant to K.S.A. 38-1675, and amendments thereto. The court shall fix  
40 a time and place for hearing and shall notify each party of the time and  
41 place.

(b) Following the hearing if the court ~~authorizes a dispositional order~~  
42 ~~orders for the secretary commissioner to retain custody, the juvenile of-~~

fender shall not be held in a ~~state youth center~~ *juvenile correctional facility* for longer than the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which the juvenile offender has been adjudicated to have committed.

(c) As used in this section, "maximum term of imprisonment" means the greatest maximum sentence authorized by K.S.A. 21-4501 and amendments thereto, applying any enhanced penalty which would be applicable under K.S.A. 21-4504 and amendments thereto and computing terms as consecutive when required by K.S.A. 21-4608 and amendments thereto.

(d) This section shall be part of and supplemental to the Kansas juvenile ~~offenders justice~~ code.

Sec. 88. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1677 is hereby amended to read as follows: 38-1677. The ~~secretary~~ *commissioner* shall develop policies to involve the school district in which the juvenile offender will be residing, if the juvenile is still required to attend a secondary school, in planning for the juvenile's release or discharge. The policies shall include a plan to send to such school district the educational records of the juvenile and notice of the offense the juvenile committed which resulted in the juvenile being adjudicated as a juvenile offender and sent to the ~~youth center~~ *juvenile correctional facility*.

Sec. 89. On and after July 1, 1997, K.S.A. 38-1681 is hereby amended to read as follows: 38-1681. (a) *Order authorizing prosecution as an adult or extended jurisdiction juvenile prosecution*. (1) Unless the respondent has consented to the order, an appeal may be taken by a respondent from an order authorizing prosecution as an adult. The appeal shall be taken only after conviction and in the same manner as other criminal appeals, except that (A) where the criminal prosecution has resulted in a judgment of conviction upon a plea of guilty or *nolo contendere*, an appeal may be taken from the order authorizing prosecution ~~as an adult pursuant to K.S.A. 38-1636, and amendments thereto~~, notwithstanding the provisions of *subsection (a) of K.S.A. 22-3602*~~(a)~~ and amendments thereto, and (B) if the criminal prosecution results in an acquittal, an appeal may nevertheless be taken from the order authorizing prosecution ~~as an adult pursuant to K.S.A. 38-1636, and amendments thereto~~, if the order provides that it attaches to future acts by the respondent as authorized by *subsection (h) of K.S.A. 38-1636*~~(h)~~, and amendments thereto.

(2) If on appeal the order authorizing prosecution as an adult is reversed but the finding of guilty is affirmed or the conviction was based on a plea of guilty or *nolo contendere*, the respondent shall be deemed adjudicated to be a juvenile offender. On remand the district court shall proceed with ~~disposition~~ *sentencing*.

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1 (b) ~~Orders of adjudication and disposition~~ *adjudgment and sentenc-*  
2 *ing.* An appeal may be taken by a respondent from an order of ~~adjudi-~~  
3 ~~cation or disposition~~ *such respondent being adjudged to be a juvenile*  
4 *offender or sentencing, or both.* The appeal shall be taken after, but within  
5 10 days of, the entry of the ~~order of disposition~~ *sentence.*

6 (c) *Priority.* Appeals under this section shall have priority over other  
7 cases except those having statutory priority.

8 Sec. 90. On and after July 1, 1997, K.S.A. 38-1682 is hereby  
9 amended to read as follows: 38-1682. An appeal may be taken by the  
10 prosecution from an order dismissing proceedings when jeopardy has not  
11 attached, from an order denying authorization to prosecute a respondent  
12 as an adult or upon a question reserved by the prosecution. An appeal  
13 upon a question reserved by the prosecution shall be taken within 10 days  
14 after ~~adjudication~~ *the respondent has been adjudged to be a juvenile of-*  
15 *fender.* Other appeals by the prosecution shall be taken within 10 days  
16 after the entry of the order appealed from.

17 Sec. 91. On and after July 1, 1997, K.S.A. 38-1691 is hereby  
18 amended to read as follows: 38-1691. (a) On and after January 1, 1993,  
19 no juvenile shall be detained or placed in any jail pursuant to the Kansas  
20 juvenile ~~offenders justice~~ code except as provided by subsections (b) and  
21 (c).

22 (b) Upon being taken into custody, an alleged juvenile offender may  
23 be temporarily detained in a jail, in quarters with sight and sound separa-  
24 tion from adult prisoners, for the purpose of identifying and processing  
25 the juvenile and transferring the juvenile to a youth residential facility or  
26 juvenile detention facility. If a juvenile is detained in jail under this sub-  
27 section, the juvenile shall be so detained only for the minimum time  
28 necessary, not to exceed six hours, and in no case overnight. ~~Prior to~~  
29 ~~January 1, 1994, if a juvenile is detained in a jail under this subsection,~~  
30 ~~the juvenile may be detained for no more than 24 hours, excluding Sat-~~  
31 ~~urdays, Sundays and legal holidays, from the time the initial detention~~  
32 ~~was imposed if all of the following criteria are met:~~

33 (1) A detention hearing is held in accordance with ~~K.S.A. 38-1632~~  
34 ~~and amendments thereto within 24 hours, excluding Saturdays, Sundays~~  
35 ~~and legal holidays, after the juvenile is taken into custody and notice of~~  
36 ~~such hearing, unless waived, is given at least eight hours prior to the~~  
37 ~~hearing;~~

38 (2) no part of the county where the juvenile is in custody is within an  
39 area designated by the United States bureau of the census as a standard  
40 metropolitan statistical area;

41 (3) there is no acceptable alternative placement for the juvenile, as  
determined in accordance with applicable criteria provided by law; and

42 (4) the jail where the juvenile is detained has been certified by the

1 secretary of corrections to provide for sight and sound separation of ju-  
2 veniles and incarcerated adults.

3 (c) The provisions of this section do not apply to detention of:

4 (1) A juvenile 16 years of age or over who is charged with a felony or  
5 with more than one offense of which one or more is a felony after having  
6 been adjudicated in two separate prior juvenile proceedings as having  
7 committed an act which would constitute a felony if committed by an  
8 adult and the adjudications occurred prior to the date of the commission  
9 of the new act charged;

10 (2) a juvenile who has been prosecuted as an adult by reason of sub-  
11 section (c)(1) and whose prosecution results in conviction of a crime;

12 (3) a juvenile with regard to whom a motion has been filed requesting  
13 prosecution as an adult pursuant to K.S.A. 38-1636 and amendments  
14 thereto; or

15 (4) (2) a juvenile who has been charged with or convicted of aggra-  
16 vated juvenile delinquency as defined by K.S.A. 21-3611 and amendments  
17 thereto.

18 (d) This section shall be part of and supplemental to the Kansas ju-  
19 venile offenders justice code.

20 (e) (1) A county may request, from the attorney general, to be ex-  
21 empt from the provisions of this section through December 31, 1993, if  
22 such county submits a plan meeting the following criteria:

23 (A) Documentation of the reasons why the county cannot meet the  
24 requirements of this section;

25 (B) a statement of unequivocal commitment to meeting the  
26 requirements of this section by January 1, 1994;

27 (C) documentation of the resources to be created or contracted for  
28 to meet the requirements; and

29 (D) creation of a community committee to implement the plan.

30 (2) The county shall submit such request to the attorney general on  
31 or before December 1, 1992. The attorney general shall decide whether  
32 the county has met the criteria within 30 days of receipt of such request  
33 and shall notify, in writing, such county and the department of social and  
34 rehabilitation services of the decision.

35 Sec. 92. On and after July 1, 1997, K.S.A. 1995 Supp. 38-1692 is  
36 hereby amended to read as follows: 38-1692. (a) As used in this section:

37 (1) "Adjudicated person" means a person adjudged to be a juvenile  
38 offender or a juvenile felon or a person not adjudicated because of mental  
39 disease or defect.

40 (2) "Laboratory confirmation of HIV infection" means positive test  
41 results from a confirmation test approved by the secretary of health and  
42 environment.

43 (3) "Sexual act" means contact between the penis and the vulva, the

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1 penis and the anus, the mouth and the penis, the mouth and the vulva or  
2 the mouth and the anus. For purposes of this definition contact involving  
3 the penis occurs upon penetration, however slight.

4 (4) "Test for HIV infection" means a test approved by the secretary  
5 of health and environment to detect the etiologic agent for the disease  
6 acquired immune deficiency syndrome.

7 (5) "Body fluids" means blood, semen or vaginal secretions or any  
8 body fluid visibly contaminated with blood.

9 (b) At the time of the first appearance before the court of a person  
10 charged with an offense involving a sexual act committed while the person  
11 was a juvenile, or in which it appears from the nature of the charge that  
12 the transmission of body fluids from one person to another may have  
13 been involved, the judge shall inform the person or the parent or legal  
14 guardian of the person of the availability of testing for HIV infection and  
15 counseling and shall cause each alleged victim of the offense, if any, to  
16 be notified that testing for HIV infection and counseling is available.

17 (c) For any offense by an adjudicated person which the court deter-  
18 mines, from the facts of the case, involved or was likely to have involved  
19 the transmission of body fluids from one person to another or involved a  
20 sexual act, the court: (1) May order the adjudicated person to submit to  
21 a test for HIV infection; or (2) shall order the adjudicated person to  
22 submit to a test for HIV infection if a victim of the offense, or the parent  
23 or legal guardian of the victim if the victim is a minor, requests the court  
24 to make such order. If a test for HIV infection is ordered under this  
25 subsection, a victim who is an adult shall designate a health care provider  
26 or counselor to receive the information on behalf of the victim. If a victim  
27 is a minor, the parent or legal guardian of the victim shall designate the  
28 health care provider or counselor to receive the information. If the test  
29 results in a negative reaction, the court shall order the adjudicated person  
30 to submit to another test for HIV infection six months after the first test  
31 was administered.

32 (d) The results of any test for HIV infection ordered under this sec-  
33 tion shall be disclosed to the court which ordered the test, to the adju-  
34 dicated person, or the parent or legal guardian of the adjudicated person,  
35 and to each person designated under subsection (c) by a victim or by the  
36 parent or legal guardian of a victim. If a test for HIV infection ordered  
37 under this section results in a laboratory confirmation of HIV infection,  
38 the results shall be reported to the secretary of health and environment  
39 and to: (1) ~~The secretary of social and rehabilitation services commissioner~~  
40 *of juvenile justice*, in the case of a juvenile offender or a person not ad-  
41 judicated because of mental disease or defect, for inclusion in such of-  
42 fender's or person's medical file; or (2) the secretary of corrections, in  
43 the case of a juvenile felon, for inclusion in such juvenile felon's medical

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file. The secretary of health and environment shall provide to each victim of the crime or sexual act, at the option of such victim, counseling regarding the human immunodeficiency virus, testing for HIV infection in accordance with K.S.A. 65-6001 *et seq.* and amendments thereto and referral for appropriate health care and services.

(e) The costs of any counseling and testing provided under subsection (d) by the secretary of health and environment shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

(f) When a court orders an adjudicated person to submit to a test for HIV infection under this section, the withdrawal of the blood may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the test for HIV infection nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the test is performed in a reasonable manner according to generally accepted medical practices.

(g) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the results or information. Any violation of this section is a Class C misdemeanor.

Sec. 93. On and after July 1, 1997, K.S.A. 38-16,111 is hereby amended to read as follows: 38-16,111. When a juvenile felon who is under 16 years of age at the time of the sentencing, has been prosecuted as an adult or under the extended jurisdiction juvenile prosecution, and has been placed in the custody of the secretary of the department of corrections, the secretary shall notify the sheriff having such juvenile felon in custody to convey such offender at a time designated by the department of social and rehabilitation services to the youth center at Topeka or the youth center at Beloit. The secretary juvenile justice authority to a juvenile correctional facility. The commissioner shall notify the court in writing of the initial placement of the juvenile felon in the youth center at Topeka or the youth center at Beloit in the specific juvenile correctional facility as soon as the placement has been accomplished. The secretary commissioner shall not permit the juvenile felon to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays and legal holidays, after the secretary commissioner has received the written order of the

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1 (1) The secretary shall consider budgetary constraints as a factor in  
2 establishing payment schedules so long as the result complies with state  
3 and federal law.

4 (2) The secretary shall establish payment schedules for providers of  
5 hospital and adult care home services under the medicaid plan that are  
6 reasonable and adequate to meet the costs which must be incurred by  
7 efficiently and economically operated facilities in order to provide care  
8 and services in conformity with applicable state and federal laws, regu-  
9 lations, and quality and safety standards. The secretary shall not be re-  
10 quired to establish rates for any such facility that are in excess of the  
11 minimum necessary to efficiently and economically meet those standards  
12 regardless of any excess costs incurred by any such facility.

13 (y) The secretary shall maintain a system of centralized payment for  
14 all welfare expenditures.

15 Sec. 101. On and after July 1, 1997, K.S.A. 1995 Supp. 39-709 is  
16 hereby amended to read as follows: 39-709. (a) *General eligibility require-*  
17 *ments for assistance for which federal moneys are expended* Subject to  
18 the additional requirements below, assistance in accordance with plans  
19 under which federal moneys are expended may be granted to any needy  
20 person who:

21 (1) Has insufficient income or resources to provide a reasonable sub-  
22 sistence compatible with decency and health. Where a husband and wife  
23 are living together, the combined income or resources of both shall be  
24 considered in determining the eligibility of either or both for such assis-  
25 tance unless otherwise prohibited by law. The secretary, in determining  
26 need of any applicant for or recipient of assistance shall not take into  
27 account the financial responsibility of any individual for any applicant or  
28 recipient of assistance unless such applicant or recipient is such indivi-  
29 dual's spouse or such individual's minor child or minor stepchild if the  
30 stepchild is living with such individual. The secretary in determining need  
31 of an individual may provide such income and resource exemptions as  
32 may be permitted by federal law. For purposes of eligibility for aid for  
33 families with dependent children, for food stamp assistance and for any  
34 other assistance provided through the department of social and rehabil-  
35 itation services under which federal moneys are expended, the secretary  
36 of social and rehabilitation services shall consider one motor vehicle  
37 owned by the applicant for assistance, regardless of the value of such  
38 vehicle, as exempt personal property and shall consider any equity in any  
39 additional motor vehicle owned by the applicant for assistance to be a  
40 nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted  
to the United States and who is residing in the state of Kansas.

43 (b) *Assistance to families with dependent children.* Assistance may be

1 granted under this act to any dependent child, or relative, subject to the  
2 general eligibility requirements as set out in subsection (a), who resides  
3 in the state of Kansas or whose parent or other relative with whom the  
4 child is living resides in the state of Kansas. Such assistance shall be known  
5 as aid to families with dependent children. Where husband and wife are  
6 living together both shall register for work under the program require-  
7 ments for aid to families with dependent children in accordance with  
8 criteria and guidelines prescribed by rules and regulations of the secre-  
9 tary.

10 (c) *Aid to families with dependent children; assignment of support*  
11 *rights and limited power of attorney.* By applying for or receiving aid to  
12 families with dependent children such applicant or recipient shall be  
13 deemed to have assigned to the secretary on behalf of the state any ac-  
14 crued, present or future rights to support from any other person such  
15 applicant may have in such person's own behalf or in behalf of any other  
16 family member for whom the applicant is applying for or receiving aid.  
17 In any case in which an order for child support has been established and  
18 the legal custodian and obligee under the order surrenders physical cus-  
19 tody of the child to a caretaker relative without obtaining a modification  
20 of legal custody and support rights on behalf of the child are assigned  
21 pursuant to this section, the surrender of physical custody and the as-  
22 signment shall transfer, by operation of law, the child's support rights  
23 under the order to the secretary on behalf of the state. Such assignment  
24 shall be of all accrued, present or future rights to support of the child  
25 surrendered to the caretaker relative. The assignment of support rights  
26 shall automatically become effective upon the date of approval for or  
27 receipt of such aid without the requirement that any document be signed  
28 by the applicant, recipient or obligee. By applying for or receiving aid to  
29 families with dependent children, or by surrendering physical custody of  
30 a child to a caretaker relative who is an applicant or recipient of such  
31 assistance on the child's behalf, the applicant, recipient or obligee is also  
32 deemed to have appointed the secretary, or the secretary's designee, as  
33 an attorney in fact to perform the specific act of negotiating and endorsing  
34 all drafts, checks, money orders or other negotiable instruments repre-  
35 senting support payments received by the secretary in behalf of any per-  
36 son applying for, receiving or having received such assistance. This limited  
37 power of attorney shall be effective from the date the secretary approves  
38 the application for aid and shall remain in effect until the assignment of  
39 support rights has been terminated in full.

40 (d) *Eligibility requirements for general assistance, the cost of which*  
41 *is not shared by the federal government.* (1) General assistance may be  
42 granted to eligible persons who do not qualify for financial assistance in  
43 a program in which the federal government participates and who satisfy

1 the additional requirements prescribed by or under this subsection (d).

2 (A) To qualify for general assistance in any form a needy person must  
3 have insufficient income or resources to provide a reasonable subsistence  
4 compatible with decency and health and, except as provided for transi-  
5 tional assistance, be a member of a family in which a minor child or a  
6 pregnant woman resides or be unable to engage in employment. The  
7 secretary shall adopt rules and regulations prescribing criteria for estab-  
8 lishing when a minor child may be considered to be living with a family  
9 and whether a person is able to engage in employment, including such  
10 factors as age or physical or mental condition. Eligibility for general as-  
11 sistance, other than transitional assistance, is limited to families in which  
12 a minor child or a pregnant woman resides or to an adult or family in  
13 which all legally responsible family members are unable to engage in  
14 employment. Where a husband and wife are living together the combined  
15 income or resources of both shall be considered in determining the eli-  
16 gibility of either or both for such assistance unless otherwise prohibited  
17 by law. The secretary in determining need of any applicant for or recipient  
18 of general assistance shall not take into account the financial responsibility  
19 of any individual for any applicant or recipient of general assistance unless  
20 such applicant or recipient is such individual's spouse or such individual's  
21 minor child or a minor stepchild if the stepchild is living with such indi-  
22 vidual. In determining the need of an individual, the secretary may pro-  
23 vide for income and resource exemptions.

24 (B) To qualify for general assistance in any form a needy person must  
25 be a citizen of the United States or an alien lawfully admitted to the  
26 United States and must be residing in the state of Kansas.

27 (2) General assistance in the form of transitional assistance may be  
28 granted to eligible persons who do not qualify for financial assistance in  
29 a program in which the federal government participates and who satisfy  
30 the additional requirements prescribed by or under this subsection (d),  
31 but who do not meet the criteria prescribed by rules and regulations of  
32 the secretary relating to inability to engage in employment or are not a  
33 member of a family in which a minor or a pregnant woman resides.

34 (3) In addition to the other requirements prescribed under this sub-  
35 section (d), the secretary shall adopt rules and regulations which establish  
36 community work experience program requirements for eligibility for the  
37 receipt of general assistance in any form and which establish penalties to  
38 be imposed when a work assignment under a community work experience  
39 program requirement is not completed without good cause. The secretary  
40 may adopt rules and regulations establishing exemptions from any such  
41 community work experience program requirements. A first time failure  
42 to complete such a work assignment requirement shall result in ineligi-  
43 bility to receive general assistance for a period fixed by such rules and

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1 regulations of not more than three calendar months. A subsequent failure  
2 to complete such a work assignment requirement shall result in a period  
3 fixed by such rules and regulations of ineligibility of not more than six  
4 calendar months.

5 (4) If any person is found guilty of the crime of theft under the pro-  
6 visions of K.S.A. 39-720, and amendments thereto, such person shall  
7 thereby become forever ineligible to receive any form of general assis-  
8 tance under the provisions of this subsection (d) unless the conviction is  
9 the person's first conviction under the provisions of K.S.A. 39-720, and  
10 amendments thereto, or the law of any other state concerning welfare  
11 fraud. First time offenders convicted of a misdemeanor under the pro-  
12 visions of such statute shall become ineligible to receive any form of  
13 general assistance for a period of 12 calendar months from the date of  
14 conviction. First time offenders convicted of a felony under the provisions  
15 of such statute shall become ineligible to receive any form of general  
16 assistance for a period of 60 calendar months from the date of conviction.

17 If any person is found guilty by a court of competent jurisdiction of any  
18 state other than the state of Kansas of a crime involving welfare fraud,  
19 such person shall thereby become forever ineligible to receive any form  
20 of general assistance under the provisions of this subsection (d) unless  
21 the conviction is the person's first conviction under the law of any other  
22 state concerning welfare fraud. First time offenders convicted of a mis-  
23 demeanor under the law of any other state concerning welfare fraud shall  
24 become ineligible to receive any form of general assistance for a period  
25 of 12 calendar months from the date of conviction. First time offenders  
26 convicted of a felony under the law of any other state concerning welfare  
27 fraud shall become ineligible to receive any form of general assistance for  
28 a period of 60 calendar months from the date of conviction.

29 (e) *Requirements for medical assistance for which federal moneys or*  
30 *state moneys or both are expended.* When the secretary has adopted a  
31 medical care plan under which federal moneys or state moneys or both  
32 are expended, medical assistance in accordance with such plan shall be  
33 granted to any person who is a citizen of the United States or who is an  
34 alien lawfully admitted to the United States and who is residing in the  
35 state of Kansas, whose resources and income do not exceed the levels  
36 prescribed by the secretary. In determining the need of an individual, the  
37 secretary may provide for income and resource exemptions and protected  
38 income and resource levels. Resources from inheritance shall be counted.  
39 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amend-  
40 ments thereto, shall constitute a transfer of resources. The secretary shall  
41 exempt principal and interest held in irrevocable trust pursuant to sub-  
42 section (c) of K.S.A. 16-303, and amendments thereto, from the eligibility  
43 requirements of applicants for and recipients of medical assistance. Such



1 assistance shall be known as medical assistance.

2 (f) *Eligibility for medical assistance of resident receiving medical care*  
3 *outside state.* A person who is receiving medical care including long-term  
4 care outside of Kansas whose health would be endangered by the post-  
5 ponement of medical care until return to the state or by travel to return  
6 to Kansas, may be determined eligible for medical assistance if such in-  
7 dividual is a resident of Kansas and all other eligibility factors are met.  
8 Persons who are receiving medical care on an ongoing basis in a long-  
9 term medical care facility in a state other than Kansas and who do not  
10 return to a care facility in Kansas when they are able to do so, shall no  
11 longer be eligible to receive assistance in Kansas unless such medical care  
12 is not available in a comparable facility or program providing such medical  
13 care in Kansas. For persons who are minors or who are under guardi-  
14 anship, the actions of the parent or guardian shall be deemed to be the  
15 actions of the child or ward in determining whether or not the person is  
16 remaining outside the state voluntarily.

17 (g) *Medical assistance; assignment of rights to medical support and*  
18 *limited power of attorney; recovery from estates of deceased recipients.*

19 (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
20 amendments thereto, or as otherwise authorized on and after September  
21 30, 1989, under section 303 and amendments thereto of the federal med-  
22 icare catastrophic coverage act of 1988, whichever is applicable, by ap-  
23 plying for or receiving medical assistance under a medical care plan in  
24 which federal funds are expended, any accrued, present or future rights  
25 to support and any rights to payment for medical care from a third party  
26 of an applicant or recipient and any other family member for whom the  
27 applicant is applying shall be deemed to have been assigned to the sec-  
28 retary on behalf of the state. The assignment shall automatically become  
29 effective upon the date of approval for such assistance without the re-  
30 quirement that any document be signed by the applicant or recipient. By  
31 applying for or receiving medical assistance the applicant or recipient is  
32 also deemed to have appointed the secretary, or the secretary's designee,  
33 as an attorney in fact to perform the specific act of negotiating and en-  
34 dorsing all drafts, checks, money orders or other negotiable instruments,  
35 representing payments received by the secretary in behalf of any person  
36 applying for, receiving or having received such assistance. This limited  
37 power of attorney shall be effective from the date the secretary approves  
38 the application for assistance and shall remain in effect until the assign-  
39 ment has been terminated in full. The assignment of any rights to pay-  
40 ment for medical care from a third party under this subsection shall not  
41 prohibit a health care provider from directly billing an insurance carrier  
for services rendered if the provider has not submitted a claim covering  
such services to the secretary for payment. Support amounts collected on

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1 behalf of persons whose rights to support are assigned to the secretary  
 2 only under this subsection and no other shall be distributed pursuant to  
 3 subsection (d) of K.S.A. 39-756, and amendments thereto, except that  
 4 any amounts designated as medical support shall be retained by the sec-  
 5 retary for repayment of the unreimbursed portion of assistance. Amounts  
 6 collected pursuant to the assignment of rights to payment for medical  
 7 care from a third party shall also be retained by the secretary for repay-  
 8 ment of the unreimbursed portion of assistance.

9 (2) The amount of any medical assistance paid after June 30, 1992,  
 10 under the provisions of subsection (e) is (A) a claim against the property  
 11 or any interest therein belonging to and a part of the estate of any de-  
 12 ceased recipient or, if there is no estate, the estate of the surviving spouse,  
 13 if any, shall be charged for such medical assistance paid to either or both,  
 14 and (B) a claim against any funds of such recipient or spouse in any  
 15 account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-  
 16 5829, and amendments thereto. There shall be no recovery of medical  
 17 assistance correctly paid to or on behalf of an individual under subsection  
 18 (e) except after the death of the surviving spouse of the individual, if any,  
 19 and only at a time when the individual has no surviving child who is under  
 20 21 years of age or is blind or permanently and totally disabled. Transfers  
 21 of real or personal property by recipients of medical assistance without  
 22 adequate consideration are voidable and may be set aside. Except where  
 23 there is a surviving spouse, or a surviving child who is under 21 years of  
 24 age or is blind or permanently and totally disabled, the amount of any  
 25 medical assistance paid under subsection (e) is a claim against the estate  
 26 in any guardianship or conservatorship proceeding. The monetary value  
 27 of any benefits received by the recipient of such medical assistance under  
 28 long-term care insurance, as defined by K.S.A. 40-2227, and amendments  
 29 thereto, shall be a credit against the amount of the claim provided for  
 30 such medical assistance under this subsection (g). The secretary is au-  
 31 thorized to enforce each claim provided for under this subsection (g).  
 32 The secretary shall not be required to pursue every claim, but is granted  
 33 discretion to determine which claims to pursue. All moneys received by  
 34 the secretary from claims under this subsection (g) shall be deposited in  
 35 the social welfare fund. The secretary may adopt rules and regulations  
 36 for the implementation and administration of the medical assistance re-  
 37 covery program under this subsection (g).

38 (h) ~~Placement under code for care of children or juvenile offenders~~  
 39 ~~code assignment of support rights and limited power of attorney.~~ In any  
 40 case in which the secretary of social and rehabilitation services pays for  
 41 the expenses of care and custody of a child pursuant to K.S.A. 38-1501  
 42 ~~et seq. or 38-1601 et seq.~~, and amendments thereto, ~~including the ex-~~  
 43 ~~penses of any foster care placement, an assignment of all past, present~~

or juvenile offenders code prior to July 1, 1997

or 38-1601 et seq., and amendments thereto, prior to July 1, 1997

[SRS suggestion]

1 and future support rights of the child in custody possessed by either  
2 parent or other person entitled to receive support payments for the child  
3 is, by operation of law, conveyed to the secretary. Such assignment shall  
4 become effective upon placement of a child in the custody of the secretary  
5 or upon payment of the expenses of care and custody of a child by the  
6 secretary without the requirement that any document be signed by the  
7 parent or other person entitled to receive support payments for the child.  
8 When the secretary pays for the expenses of care and custody of a child  
9 or a child is placed in the custody of the secretary, the parent or other  
10 person entitled to receive support payments for the child is also deemed  
11 to have appointed the secretary, or the secretary's designee, as attorney  
12 in fact to perform the specific act of negotiating and endorsing all drafts,  
13 checks, money orders or other negotiable instruments representing sup-  
14 port payments received by the secretary on behalf of the child. This lim-  
15 ited power of attorney shall be effective from the date the assignment to  
16 support rights becomes effective and shall remain in effect until the as-  
17 signment of support rights has been terminated in full.

18 (i) No person who voluntarily quits employment or who is fired from  
19 employment due to gross misconduct as defined by rules and regulations  
20 of the secretary or who is a fugitive from justice by reason of a felony  
21 conviction or charge shall be eligible to receive public assistance benefits  
22 in this state. Any recipient of public assistance who fails to timely comply  
23 with monthly reporting requirements under criteria and guidelines pre-  
24 scribed by rules and regulations of the secretary shall be subject to a  
25 penalty established by the secretary by rules and regulations.

26 (j) If the applicant or recipient of aid to families with dependent chil-  
27 dren is a mother of the dependent child, as a condition of the mother's  
28 eligibility for aid to families with dependent children the mother shall  
29 identify by name and, if known, by current address the father of the  
30 dependent child except that the secretary may adopt by rules and regu-  
31 lations exceptions to this requirement in cases of undue hardship. Any  
32 recipient of aid to families with dependent children who fails to cooperate  
33 with requirements relating to child support enforcement under criteria  
34 and guidelines prescribed by rules and regulations of the secretary shall  
35 be subject to a penalty established by the secretary by rules and regula-  
36 tions which penalty shall progress to ineligibility for the family after three  
37 months of noncooperation.

38 (k) By applying for or receiving child care benefits or food stamps,  
39 the applicant or recipient shall be deemed to have assigned, pursuant to  
40 K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the  
41 state only accrued, present or future rights to support from any other  
42 person such applicant may have in such person's own behalf or in behalf  
43 of any other family member for whom the applicant is applying for or

receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

Sec. 102. On and after July 1, 1997, K.S.A. 39-713c is hereby amended to read as follows: 39-713c. The secretary shall find suitable homes for children who are deprived, wayward, miscreant, delinquent; or children in need of care or ~~juvenile offenders~~ referred to the secretary by the district court, and place and supervise the children in such homes. This shall not prevent the use of licensed private child-placing agencies by the secretary or district court when desired.

Sec. 103. On and after July 1, 1997, K.S.A. 39-754 is hereby amended to read as follows: 39-754. (a) If an assignment of support rights is deemed to have been made pursuant to K.S.A. 39-709 or 39-756, and amendments thereto, support payments shall be made to the department of social and rehabilitation services.

(b) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or other person whose support rights are assigned, the secretary of social and rehabilitation services shall file a notice of the assignment with the court ordering the payments without the requirement that a copy of the notice be provided to the obligee or obligor. The notice shall not require the signature of the applicant, recipient or obligee on any accompanying assignment document. The notice shall include:

- (1) A statement that the assignment is in effect;
- (2) the name of any child and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) a request that the payments ordered be made to the secretary of social and rehabilitation services.

(c) Upon receipt of the notice and without the requirement of a hear-

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1 pursuant to K.S.A. 39-709 and amendments thereto shall remain in full  
 2 force and effect so long as the secretary is providing public assistance in  
 3 accordance with a plan under which federal moneys are expended on  
 4 behalf of the applicant, recipient or child for: (a) Aid to families with  
 5 dependent children, (b) medical assistance or (c) the expenses of a child  
 6 in the secretary's care or custody pursuant to K.S.A. 38-1501 *et seq.*, and  
 7 amendments thereto, ~~or K.S.A. 38-1601 *et seq.*, and amendments thereto,~~  
 8 or so long as the secretary is providing support enforcement services  
 9 pursuant to K.S.A. 39-756 and amendments thereto. Upon discontinu-  
 10 ance of all such assistance and support enforcement services, the assign-  
 11 ment shall remain in effect as to unpaid support obligations due and  
 12 owing at the time of the discontinuance of assistance until the claim of  
 13 the secretary for repayment of the unreimbursed portion of any assistance  
 14 is satisfied. If the secretary's claim for reimbursement is only for medical  
 15 assistance, the assignment shall only remain in effect as to unpaid support  
 16 obligations due and owing at the time of the discontinuance of medical  
 17 assistance that are designated as medical support. Nothing herein shall  
 18 affect or limit the rights of the secretary under an assignment of rights to  
 19 payment for medical care from a third party pursuant to subsection (g)  
 20 of K.S.A. 39-709 and amendments thereto.

21 Sec. 106. On and after July 1, 1997, K.S.A. 39-1301 is hereby  
 22 amended to read as follows: 39-1301. (a) The purpose of this act shall be  
 23 to aid in development, maintenance, improvement or expansion of com-  
 24 munity based group boarding homes for children and youth and com-  
 25 munity based services for children and youth in this state.

26 (b) *Any community based group boarding homes for children and*  
 27 *youth that provide services for juvenile offenders only pursuant to K.S.A.*  
 28 *39-1301 et seq., and amendments thereto, shall be under the authority of*  
 29 *the commissioner of juvenile justice for the purposes of K.S.A. 39-1301 et*  
 30 *seq., and amendments thereto. All other community based group boarding*  
 31 *homes for children and youth shall be under the authority of the secretary*  
 32 *for the purposes of K.S.A. 39-1301 et seq., and amendments thereto.*

33 Sec. 107. On and after July 1, 1997, K.S.A. 39-1302 is hereby  
 34 amended to read as follows: 39-1302. The secretary of social and reha-  
 35 bilitation services, referred to in this act as secretary, is hereby designated  
 36 as the official agency of this state authorized to accept and disburse funds  
 37 made available to the secretary *or the commissioner of juvenile justice* for  
 38 grants-in-aid to eligible local community organizations for community  
 39 based group boarding homes for children and youth or to eligible local  
 40 community based services for children and youth. The secretary may ac-  
 41 cept any moneys made available to the state by the federal government  
 42 or any agency thereof and accept and account for state appropriations,  
 43 gifts and donations from any other sources.

2 Sec. 108. On and after July 1, 1997, K.S.A. 39-1303 is hereby  
3 amended to read as follows: 39-1303. The *secretary or the commissioner*  
4 *of juvenile justice* shall make no commitment nor enter into any agree-  
5 ment under authority of this act until ~~he~~ *the secretary or commissioner*  
6 has determined that sufficient funds have been appropriated to meet the  
7 state's share of the cost thereof. The *secretary or commissioner* shall not  
8 enter into any such agreement until ~~he~~ *the secretary or commissioner* has  
9 published standards relating to such homes and services, and such stan-  
10 dards have been complied with by those with whom such contracts are  
11 made. The *secretary or commissioner* shall not enter into any such agree-  
12 ment until ~~he~~ *the secretary or commissioner* has been provided adequate  
13 assurance that the local organizations applying for aid has sufficient funds  
14 available to meet any obligations assumed under the agreement entered  
15 into.

16 Sec. 109. On and after July 1, 1997, K.S.A. 39-1307 is hereby  
17 amended to read as follows: 39-1307. All applications for grants-in-aid  
18 under this act shall be submitted to the *secretary or commissioner, which-*  
19 *ever is applicable*, for approval or rejection. Whenever any such appli-  
20 cation is approved, the *secretary or commissioner* may enter into agree-  
21 ments ~~and expend funds~~ for grants-in-aid as authorized in this act. *The*  
22 *secretary shall expend funds for grants-in-aid as authorized in this act for*  
23 *all community based group boarding homes for children and youth. Any*  
24 *funds for grants-in-aid for such homes under the authority of the com-*  
25 *missioner shall be expended upon written approval by the commissioner*  
26 *and communicated to the secretary.*

27 Sec. 110. On and after July 1, 1997, K.S.A. 40-1909 is hereby  
28 amended to read as follows: 40-1909. Such corporations shall be subject  
29 to the provisions of the Kansas general corporation code, articles 60 to  
30 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable  
31 to nonprofit corporations, to the provisions of K.S.A. 40-2,116 and 40-  
32 2,117 and to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-  
33 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-  
34 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,  
35 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-  
36 2,114, 40-2a01 to 40-2a19, inclusive, 40-2216 to 40-2221, inclusive, 40-  
37 2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, *section 15*, and  
38 amendments thereto, except as the context otherwise requires, and shall  
39 not be subject to any other provisions of the insurance code except as  
40 expressly provided in this act.

41 Sec. 111. On and after July 1, 1997, K.S.A. 1995 Supp. 40-19a10 is  
42 hereby amended to read as follows: 40-19a10. (a) Such corporations shall  
43 be subject to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-  
219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-

1 as  $\frac{2}{3}$  full-time equivalent special teacher.

2 (b) (1) No special teacher in excess of the number of special teachers  
3 necessary to comply with the ratio of special teacher to exceptional chil-  
4 dren prescribed by the state board for the school district shall be counted  
5 in making computations under this section.

6 (2) No time spent by a special teacher in connection with duties per-  
7 formed under a contract entered into by the ~~youth center~~ *juvenile cor-*  
8 *rectional facility at Atchison, the youth center juvenile correctional facility*  
9 *at Beloit or the youth center juvenile correctional facility at Topeka* and  
10 a school district for the provision of special education services by such  
11 state institution shall be counted in making computations under this sec-  
12 tion.

13 Sec. 121. On and after July 1, 1997, K.S.A. 72-1111 is hereby  
14 amended to read as follows: 72-1111. (a) Subject to the other provisions  
15 of this section, every parent or person acting as parent in the state of  
16 Kansas, who has control over or charge of any child who has reached the  
17 age of seven years and is under the age of ~~16~~ 18 years, shall require such  
18 child to attend continuously each school year (1) a public school for the  
19 duration of the school term provided for in K.S.A. 72-1106, and amend-  
20 ments thereto, or (2) a private, denominational or parochial school taught  
21 by a competent instructor for a period of time which is substantially equiv-  
22 alent to the period of time public school is maintained in the school  
23 district in which the private, denominational or parochial school is located.  
24 *If the child is 16 or 17 years of age, the parent or person acting as parent,*  
25 *by written consent, may allow the child to be exempt from the compulsory*  
26 *attendance requirements of this section.*

27 (b) Any child who is under the age of seven years, but who is enrolled  
28 in school, is subject to the compulsory attendance requirements of this  
29 section. Any such child may be withdrawn from enrollment in school at  
30 any time by a parent or person acting as parent of the child and thereupon  
31 the child shall be exempt from the compulsory attendance requirements  
32 of this section until the child reaches the age of seven years or is re-  
33 enrolled in school.

34 (c) Any child who is determined to be an exceptional child, except  
35 for an exceptional child who is determined to be a gifted child, under the  
36 provisions of the special education for exceptional children act is subject  
37 to the compulsory attendance requirements of such act and is exempt  
38 from the compulsory attendance requirements of this section.

39 (d) No child attending public school in this state shall be required to  
40 participate in any activity which is contrary to the religious teachings of  
41 the child if a written statement signed by one of the parents or a person  
42 acting as parent of the child is filed with the proper authorities of the  
43 school attended requesting that the child not be required to participate

in such activities and stating the reason for the request.

(e) When a recognized church or religious denomination that objects to a regular public high school education provides, offers and teaches, either individually or in cooperation with another recognized church or religious denomination, a regularly supervised program of instruction, which is approved by the state board of education, for children of compulsory school attendance age who have successfully completed the eighth grade, participation in such a program of instruction by any such children whose parents or persons acting as parents are members of the sponsoring church or religious denomination shall be regarded as acceptable school attendance within the meaning of this act. Approval of such programs shall be granted by the state board of education, for two-year periods, upon application from recognized churches and religious denominations, under the following conditions: (1) Each participating child shall be engaged, during each day on which attendance is legally required in the public schools in the school district in which the child resides, in at least five hours of learning activities appropriate to the adult occupation that the child is likely to assume in later years;

(2) acceptable learning activities, for the purposes of this subsection, shall include parent (or person acting as parent) supervised projects in agriculture and homemaking, work-study programs in cooperation with local business and industry, and correspondence courses from schools accredited by the national home study council, recognized by the United States office of education as the competent accrediting agency for private home study schools;

(3) at least 15 hours per week of classroom work under the supervision of an instructor shall be provided, at which time students shall be required to file written reports of the learning activities they have pursued since the time of the last class meeting, indicating the length of time spent on each one, and the instructor shall examine and evaluate such reports, approve plans for further learning activities, and provide necessary assignments and instruction;

(4) regular attendance reports shall be filed as required by law, and students shall be reported as absent for each school day on which they have not completed the prescribed minimum of five hours of learning activities;

(5) the instructor shall keep complete records concerning instruction provided, assignments made, and work pursued by the students, and these records shall be filed on the first day of each month with the state board of education and the board of education of the school district in which the child resides;

(6) the instructor shall be capable of performing competently the functions entrusted thereto;

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2 (7) in applying for approval under this subsection a recognized church  
3 or religious denomination shall certify its objection to a regular public  
4 high school education and shall specify, in such detail as the state board  
5 of education may reasonably require, the program of instruction that it  
6 intends to provide and no such program shall be approved unless it fully  
7 complies with standards therefor which shall be specified by the state  
8 board of education;

9 (8) if the sponsors of an instructional program approved under this  
10 subsection fail to comply at any time with the provisions of this subsection,  
11 the state board of education shall rescind, after a written warning has  
12 been served and a period of three weeks allowed for compliance, approval  
13 of the programs, even though the two-year approval period has not  
14 elapsed, and thereupon children attending such program shall be admit-  
15 ted to a high school of the school district.

16 (f) As used in this section, the terms "parent" and "person acting as  
17 parent" have the meanings respectively ascribed thereto in K.S.A. 72-  
18 1046, and amendments thereto.

19 Sec. 122. On and after July 1, 1997, K.S.A. 1995 Supp. 72-1113 is  
20 hereby amended to read as follows: 72-1113. (a) Each board of education  
21 shall designate one or more employees who shall report to the secretary  
22 of social and rehabilitation services, or a designee thereof, all cases of  
23 children who are less than 13 years of age and are not attending school  
24 as required by law, and to the appropriate county or district attorney, or  
25 a designee thereof, all cases of children who are 13 or more years of age  
26 but less than ~~16~~ 18 years of age and are not attending school as required  
27 by law. The designation shall be made no later than September 1 of each  
28 school year and shall be certified no later than 10 days thereafter by the  
29 board of education to the secretary of social and rehabilitation services,  
30 or the designee thereof, to the county or district attorney, or the designee  
31 thereof, and to the commissioner of education. The commissioner of ed-  
32 ucation shall compile and maintain a list of the designated employees of  
33 each board of education.

34 (b) Whenever a child is required by law to attend school, and the  
35 child is not enrolled in a public or nonpublic school, the child shall be  
36 considered to be not attending school as required by law and a report  
37 thereof shall be made in accordance with the provisions of subsection (a)  
38 by a designated employee of the board of education of the school district  
39 in which the child resides. The provisions of this subsection are subject  
40 to the provisions of subsection (d).

41 (c) (1) Whenever a child is required by law to attend school and is  
42 enrolled in school, and the child is inexcusably absent therefrom on either  
43 three consecutive school days or five school days in any semester or seven  
44 school days in any school year, whichever of the foregoing occurs first,

the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a).

(5) The provisions of this subsection are subject to the provisions of subsection (d).

(d) (1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary of social and rehabilitation services or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education

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1 shall serve notice thereof upon a parent or person acting as parent of the  
2 child. The notice may be oral or written and shall inform the parent or  
3 person acting as parent of the child that the child was absent from school  
4 without a valid excuse and was delivered to school by a law enforcement  
5 officer.

6 (e) Whenever the secretary of social and rehabilitation services re-  
7 ceives a report required under this section, the secretary shall investigate  
8 the matter. If, during the investigation, the secretary determines that the  
9 reported child is not attending school as required by law, the secretary  
10 shall institute proceedings under the code for care of children. If, during  
11 the investigation, the secretary determines that a criminal prosecution  
12 should be considered, the secretary shall make a report of the case to the  
13 appropriate law enforcement agency.

14 (f) Whenever a county or district attorney receives a report required  
15 under this section, the county or district attorney shall investigate the  
16 matter. If, during the investigation, the county or district attorney deter-  
17 mines that the reported child is not attending school as required by law,  
18 the county or district attorney shall prepare and file a petition alleging  
19 that the child is a child in need of care. If, during the investigation, the  
20 county or district attorney determines that a criminal prosecution is nec-  
21 essary, the county or district attorney shall commence the same.

22 (g) As used in this section, "board of education" means the board of  
23 education of a school district or the governing authority of a nonpublic  
24 school. The provisions of this act shall apply to both public and nonpublic  
25 schools.

26 Sec. 123. On and after July 1, 1997, K.S.A. 74-5344 is hereby  
27 amended to read as follows: 74-5344. Nothing contained in this act shall  
28 be construed: (a) To prevent qualified members of other professional  
29 groups such as, but not limited to, ministers, Christian Science practi-  
30 tioners, social workers and sociologists from doing work of a psychological  
31 nature consistent with their training and consistent with any code of ethics  
32 of their respective professions so long as they do not hold themselves out  
33 to the public by any title or description of services incorporating the words  
34 "psychologic," "psychological," "psychologist" or "psychology";

35 (b) in any way to restrict any person from carrying on any of the  
36 aforesaid activities in the free expression or exchange of ideas concerning  
37 the practice of psychology, the application of its principles, the teaching  
38 of such subject matter and the conducting of research on problems re-  
39 lating to human behavior if such person does not represent such person  
40 or such person's services in any manner prohibited by this act;

41 (c) to limit the practice of psychology of a registered masters level  
42 psychologist or a person who holds a temporary permit to practice as a  
43 registered masters level psychologist insofar as such practice is a part of

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(j) No person less than 18 years of age shall purchase a parimutuel ticket or an interest in such a ticket. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the Kansas juvenile ~~offenders~~ justice code.

Sec. 127. On and after July 1, 1997, K.S.A. 1995 Supp. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the ~~secretary of social and rehabilitation services~~ *commissioner of juvenile justice* and the director of the Kansas bureau of investigation.

secretary of social and rehabilitation services, the [SRS suggestion]

(c) The director and all existing employees of the Kansas sentencing commission shall serve as staff to the Kansas criminal justice coordinating council, while continuing to serve at the will of the Kansas sentencing commission pursuant to K.S.A. 74-9103 and amendments thereto in the performance of its duties as outlined in K.S.A. 74-9101, 74-9106 and 21-4725 and amendments thereto. The director shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) Define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

(2) perform such criminal justice studies or tasks as requested by the governor, the legislature or the chief justice, as deemed appropriate or feasible by the council;

(3) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the department of social and rehabilitation services shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database; and

(4) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau

of justice assistance grants currently administered through the law enforcement antidrug abuse program of the department of administration. On the effective date of this act any bureau of justice assistance antidrug abuse federal fund balances in any account and all unclassified positions authorized for the law enforcement antidrug abuse program of the department of administration shall be transferred to and budgeted with the Kansas sentencing commission.

(f) The council shall appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.

(g) The council shall form a task force to study and develop policies and recommendations regarding the juvenile justice system, including issues of jurisdiction, placement, intake and assessment processes, dispositional alternatives, financing strategies, availability of mental health services and work processes and case loads of social workers and court services officers, the implications of a youth authority and any other issues affecting children in need of care as defined in K.S.A. 38-1501 et seq. and juvenile offenders as defined in K.S.A. 38-1601 et seq. and amendments thereto. The task force shall consist of the following members: Executive director of the corporation for change or designee, chair of the advisory committee on juvenile offender programs or designee, commissioner of youth services of the department of social and rehabilitation services or designee; additional members to be selected by the council shall include a director of a community corrections program, a juvenile judge, a prosecuting attorney, an attorney who represents juveniles, a deputy secretary of corrections, a court services officer, and a sheriff or chief of police. The corporation for change and the division of youth services of the state department of social and rehabilitation services shall each assign one full-time equivalent staff member to the council or, in the case of the corporation for change, the equivalent of such by more than one staff member or other, for a period of one year, which staff shall be approved by the council and perform duties as assigned by and function under the direction of the executive director of the staff of the council, while continuing to be compensated by the agency by which employed. The task force shall submit a preliminary report to the council, and the council shall report to the chairperson of the senate and house committee on judiciary during the interim session of the 1995 legislature. A final report shall be submitted to the legislature on or before February

1 secretary of corrections.

2 (b) Every woman sentenced to the custody of the secretary of cor-  
3 rections shall be given a scientific examination and study and shall have  
4 a program planned and recommended for her, which examination, study  
5 and program shall be substantially equal to that provided for in K.S.A.  
6 75-5262 and amendments thereto. The examination shall be given, the  
7 study shall be made and the program shall be prepared in accordance  
8 with procedures prescribed by the secretary of corrections, subject to the  
9 provisions of K.S.A. 1995 Supp. 75-52,134, *and amendments thereto*. If  
10 the woman in the custody of the secretary is a juvenile felon, as ~~defined~~  
11 ~~described in K.S.A. 38-16,112, K.S.A. 38-16,111, and amendments~~  
12 *thereto*, such juvenile felon shall not be given a scientific examination and  
13 study until such time as such juvenile felon is to be transferred from the  
14 ~~youth center at Beloit~~ *a juvenile correctional facility* to a department of  
15 corrections institution or facility.

16 Sec. 132. On and after July 1, 1996, K.S.A. 1995 Supp. 75-7001 is  
17 hereby amended to read as follows: 75-7001. On ~~July~~ *January* 1, 1997,  
18 the governor shall appoint a commissioner of juvenile justice. ~~The~~ *The*  
19 *commissioner may appoint staff assistants and employees as are necessary*  
20 *to enable the commissioner to carry out the transfer of powers, duties and*  
21 *functions of the department of social and rehabilitation services and the*  
22 *secretary of social and rehabilitation services concerning juvenile offend-*  
23 *ers to the juvenile justice authority and the commissioner of juvenile jus-*  
24 *tice. On and after July 1, 1997, the commissioner of juvenile justice shall*  
25 *be responsible for the care, custody and control of juvenile offenders and*  
26 *shall be in charge of the juvenile justice authority. The juvenile justice*  
27 *authority shall:*

28 (a) Control and manage the operation of the state ~~youth centers ju-~~  
29 ~~venile correctional facilities;~~

30 (b) evaluate the rehabilitation of juveniles committed to the authority  
31 and prepare and submit periodic reports to the committing court for the  
32 purposes of:

33 (1) Evaluating the effectiveness of institutional treatment;

34 (2) making recommendations for release where appropriate, and rec-  
35 ommending terms and conditions for release; and

36 (3) reviewing the placement of children and recommending alter-  
37 native placements such as supervised release into the community, out-of-  
38 home placement, or community services work where appropriate with  
39 the approval of the court.

40 (c) consult with the schools and courts of this state on the develop-  
41 ment of programs for the reduction and prevention of delinquency and  
42 the treatment of juvenile offenders;

43 (d) cooperate with other agencies whose services deal with the care

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and treatment of juvenile offenders to the end that juvenile offenders may wherever possible be assisted to a successful adjustment outside of institutional care;

(e) advise local, state and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of delinquency, and the treatment of juvenile offenders;

(f) assemble and distribute information relating to delinquency and report on studies relating to community conditions which affect the problem of delinquency;

(g) assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combating juvenile delinquency and crime, but no such survey shall be conducted unless local individuals and groups request it through their local authorities, and no such request shall be interpreted as binding the community to following the recommendations made as a result of the request; and

(h) be responsible for directing state moneys to providers in local communities of alternative placements such as supervised release into the community, out-of-home placement, community services work or other community-based service; provide assistance to such providers; and evaluate and monitor the performance of such providers relating to the provision of services.

Sec. 133. On and after July 1, 1996, K.S.A. 1995 Supp. 75-7002 is hereby amended to read as follows: 75-7002. On and after July 1, 1997:

(a) Except as otherwise provided by this act, all of the powers, duties and functions of the department of social and rehabilitation services and the secretary of the department of social and rehabilitation services concerning juvenile offenders are hereby transferred to and conferred and imposed upon the juvenile justice authority and the commissioner of juvenile justice established by this act.

(b) Except as otherwise provided by this act, the juvenile justice authority and the commissioner of juvenile justice established by this act shall be the successor in every way to the powers, duties and functions of the department of social and rehabilitation services and the secretary of the department of social and rehabilitation services concerning juvenile offenders in which the same were vested prior to the effective date of this section. Every act performed in the exercise of such powers, duties and functions by or under the authority of the juvenile justice authority or the commissioner of juvenile justice concerning juvenile offenders established by this act shall be deemed to have the same force and effect as if performed by the department of social and rehabilitation services or the secretary of the department of social and rehabilitation services, re-

1 spectively, in which such powers, duties and functions were vested prior  
2 to the effective date of this section.

3 (c) Except as otherwise provided by this act, whenever the depart-  
4 ment of social and rehabilitation services, or words of like effect con-  
5 cerning juvenile offenders, is referred to or designated by a statute, con-  
6 tract or other document, such reference or designation shall be deemed  
7 to apply to the juvenile justice authority established by this act.

8 (d) Except as otherwise provided by this act, whenever the secretary  
9 of the department of social and rehabilitation services, or words of like  
10 effect concerning juvenile offenders, is referred to or designated by a  
11 statute, contract or other document, such reference or designation shall  
12 be deemed to apply to the commissioner of juvenile justice established  
13 by this act.

14 (e) All rules and regulations of the department of social and rehabil-  
15 itation services or the secretary of the department of social and rehabil-  
16 itation services concerning juvenile offenders in existence on the effective  
17 date of this section shall continue to be effective and shall be deemed to  
18 be duly adopted rules and regulations of the commissioner of juvenile  
19 justice established by this act until revised, amended, revoked or nullified  
20 pursuant to law.

21 (f) All orders and directives of the department of social and rehabil-  
22 itation services or the secretary of the department of social and rehabil-  
23 itation services concerning juvenile offenders in existence on the effective  
24 date of this section shall continue to be effective and shall be deemed to  
25 be orders and directives of the juvenile justice authority established by  
26 this act until revised, amended or nullified pursuant to law.

27 (g) On the effective date of this section, the juvenile justice authority  
28 established by this act shall succeed to whatever right, title or interest the  
29 department of social and rehabilitation services has acquired in any real  
30 property in this state *concerning juvenile offenders*, and the authority shall  
31 hold the same for and in the name of the state of Kansas. On and after  
32 the effective date of this section, whenever any statute, contract, deed or  
33 other document concerns the power or authority of the department of  
34 social and rehabilitation services or the secretary of the department of  
35 social and rehabilitation services concerning juvenile offenders to acquire,  
36 hold or dispose of real property or any interest therein, the juvenile justice  
37 authority as established by this act shall succeed to such power or au-  
38 thority.

39 (h) The juvenile justice authority and the commissioner of juvenile  
40 justice established by this act shall be continuations of the department of  
41 social and rehabilitation services and the secretary of the department of  
42 social and rehabilitation services concerning juvenile offenders.

43 Sec. 134. On and after July 1, 1996, K.S.A. 1995 Supp. 75-7008 is

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1 hereby amended to read as follows: 75-7008. (a) There is hereby estab-  
2 lished the Kansas youth authority. The authority shall develop confine-  
3 ment and alternate disposition policies for juvenile offenders. The au-  
4 thority shall specifically look at confinement as well as diversion, fines,  
5 restitution, community service, standard probation, intensive supervision,  
6 house arrest programs, electronic monitoring, structured school, day re-  
7 porting centers, community residential care, treatment centers and sanc-  
8 tions house.

9 (b) The Kansas youth authority shall develop and submit its interim  
10 report and statutory proposals to the legislature on or before November  
11 1, 1995. A ~~final report and recommendation~~ *transitional plan* shall be  
12 submitted on the commencement of the 1997 legislative session. *Such*  
13 *transitional plan shall include a plan for the transfer of the powers, duties*  
14 *and functions of the department of social and rehabilitation services and*  
15 *other state agencies concerning juvenile offenders to the juvenile justice*  
16 *authority and the commissioner of juvenile justice; a plan for a juvenile*  
17 *offender placement matrix to promote uniformity throughout the system,*  
18 *and a plan to facilitate the transfer from a state-based juvenile justice*  
19 *system to a community-based juvenile justice system. The plan for transi-*  
20 *sition to a more community-based juvenile justice system shall specifically*  
21 *address the governance, financial needs, compliance requirements and*  
22 *accountability of the system. The Kansas youth authority may contract*  
23 *with a consultant to provide assistance with such transitional plans.*

24 (c) On July 1, 1997, the Kansas youth authority shall become an ad-  
25 visory authority to the commissioner of juvenile justice.

26 (d) The Kansas youth authority shall review programs and services  
27 provided by community corrections programs pursuant to the community  
28 corrections act. The Kansas youth authority shall review the local juvenile  
29 intake and assessment programs. The Kansas youth authority may study  
30 issues concerning children in need of care.

31 (e) ~~The Kansas youth authority shall coordinate all state efforts to~~  
32 ~~prevent alcohol and drug abuse by juveniles.~~

33 (f) ~~The Kansas youth authority shall develop a comprehensive strat-~~  
34 ~~egy for prevention and early intervention, including, but not limited to, a~~  
35 ~~program to assist each community in performing a comprehensive risk~~  
36 ~~assessment.~~

37 (g) Annually, the Kansas youth authority shall recognize:

38 (1) No more than six individuals or organizations that have made  
39 significant and positive contributions to Kansas youth, and

40 (2) one male and one female Kansas youth for significant and positive  
41 contributions to the eradication of youth risk factors in such youth's com-  
42 munity

43 (h) The Kansas youth authority may appoint an advisory youth coun-

a plan for aftercare services upon release from a juvenile correctional facility including the development of discharge plans which will coordinate the efficient delivery of services including educational services; a plan in coordination with the department of social and rehabilitation services to consolidate the functions of juvenile offenders and children in need of care intake and assessment services to provide a state-wide plan for coordinating services on a 24-hour a day basis; a plan to recommend how all juveniles in police custody will be processed through the juvenile intake and assessment system;

shall be based on judicial districts and

[Youth Authority subcommittee discussion]

Kansas department of social and rehabilitation services, in cooperation with the

Kansas department of social and rehabilitation services, in cooperation with the

[SRS suggestion]

1 cil. Such council shall advise the authority on policy recommendations  
2 and programs. Members of the youth council shall meet and have such  
3 duties as determined by the Kansas youth authority.

4 (i) There is hereby created the Kansas endowment for youth fund in  
5 the state treasury. All moneys credited to the Kansas endowment for youth  
6 fund shall be used to fund prevention programs for youths. The Kansas  
7 youth authority shall accept grants and donations, both public and pri-  
8 vate, to be credited to the fund. All expenditures from the Kansas endow-  
9 ment for youth fund shall be made in accordance with appropriation acts  
10 upon warrants of the director of accounts and reports issued pursuant to  
11 vouchers approved by the chairperson of the Kansas youth authority or  
12 by a person or persons designated by such chairperson. The Kansas youth  
13 authority may contract with a consultant to determine the elements of a  
14 successful endowment program. On the 10th of each month, the director  
15 of accounts and reports shall transfer from the state general fund to the  
16 Kansas endowment for youth fund, the amount of money certified by the  
17 pooled money investment board in accordance with this subsection. Prior  
18 to the 10th of each month, the pooled money investment board shall certify  
19 to the director of accounts and reports the amount of money equal to the  
20 proportionate amount of all the interest credited to the state general fund  
21 for the preceding period of time specified under this subsection, pursuant  
22 to K.S.A. 75-4210a, and amendments thereto, that is attributable to money  
23 in the Kansas endowment for youth fund. Such amount of money shall be  
24 determined by the pooled money investment board based on:

25 (1) The average daily balance of moneys in the Kansas endowment  
26 for youth fund during the period of time specified under this subsection  
27 as certified to the board by the director of accounts and reports; and

28 (2) the average interest rate on repurchase agreements of less than 30  
29 days' duration entered into by the pooled money investment board for  
30 that period of time. On or before the fifth day of the month for the pre-  
31 ceding month, the director of accounts and reports shall certify to the  
32 pooled money investment board the average daily balance of moneys in  
33 the Kansas endowment for youth fund for the period of time specified  
34 under this subsection.

35 Sec. 135. On and after July 1, 1996, K.S.A. 1995 Supp. 75-7009 is  
36 hereby amended to read as follows: 75-7009. (a) The Kansas youth au-  
37 thority shall consist of seven members. The governor shall appoint one  
38 member from each congressional district and three members from the  
39 state at large. The governor shall appoint a chairperson. ~~The members of~~  
40 ~~the authority shall be appointed by June 1, 1995.~~

41 (b) The authority shall meet upon call of its chairperson as is neces-  
42 sary to carry out its duties under this act.

43 (c) Of the members of the board appointed in the year 1999, three

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1 members shall have terms ending on the second Monday in January 2001  
2 and four members shall have terms ending on the second Monday in  
3 January 2003. Each member appointed in 1995 and subsequent to 1999  
4 shall be appointed for a four-year term and shall continue in office until  
5 a successor is appointed and qualified. Members shall be eligible for reap-  
6 pointment.

7 (d) Each member of the authority shall receive compensation, sub-  
8 sistence allowances, mileage and other expenses as provided for in K.S.A.  
9 75-3223, and amendments thereto.

10 (e) The attorney general or the attorney general's designee ~~and~~ the  
11 chief justice of the supreme court or the chief justice's designee shall serve  
12 as ex officio members of the authority. The governor may appoint other  
13 members to serve as ex officio members. Such ex officio members ap-  
14 pointed by the governor shall serve at the pleasure of the governor. All ex  
15 officio members of the commission shall be nonvoting members.

and the commissioner of education or the commissioner's designee

[KNEA suggestion]

16 Sec. 136. On and after July 1, 1997, K.S.A. 1995 Supp. 76-375 is  
17 hereby amended to read as follows: 76-375. (a) On or before December  
18 31 in each year, the chancellor of the university of Kansas, or the designee  
19 of the chancellor, shall prepare a list of the areas of this state which the  
20 chancellor, or designee of the chancellor, determines to be critically med-  
21 ically underserved areas by specialty and the areas of this state which the  
22 chancellor, or designee of the chancellor, determines to be medically  
23 underserved areas by specialty. In preparing such a list the chancellor, or  
24 designee of the chancellor, shall consult with the medical scholarship  
25 advisory committee. All state medical care facilities or institutions, all  
26 medical centers operated in the state of Kansas by the veterans admin-  
27 istration of the United States, and all full-time faculty positions at the  
28 university of Kansas school of medicine in family medicine or family prac-  
29 tice are qualified for service in both service commitment area I and ser-  
30 vice commitment area II without being determined medically underserved  
31 areas. In preparing such a list, the portion of time of persons engaged in  
32 the practice of medicine and surgery at any institution under the juris-  
33 diction and control of the secretary of social and rehabilitation services  
34 shall not be included in determining whether an area is critically medically  
35 underserved or medically underserved. Every such list shall note that all  
36 state medical care facilities or institutions qualify for such service com-  
37 mitments, in addition to listing those areas determined to be critically  
38 medically underserved or medically underserved. Critically medically un-  
39 derserved areas by specialty and medically underserved areas by specialty  
40 established prior to the effective date of this act by the secretary of health  
41 and environment shall continue in effect for the purposes of this act until  
42 changed by the chancellor of the university of Kansas, or the designee of  
43 the chancellor. The chancellor of the university of Kansas, or the designee

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38-1602, and amendments thereto, the Kansas soldiers' home and any correctional institution under the secretary of corrections, as defined by subsection (d) of K.S.A. 75-5202 and amendments thereto, but shall not include any state educational institution under the state board of regents, as defined by subsection (a) of K.S.A. 76-711 and amendments thereto, except as specifically provided by statute.

Sec. 138. On and after July 1, 1996, K.S.A. 1995 Supp. 76-12a21 is hereby amended to read as follows: 76-12a21. (a) All jurisdiction, powers, functions and duties relating to institutions as defined in K.S.A. 76-12a18 and amendments thereto are conferred and imposed upon the secretary to be administered within youth services under the supervision of the commissioner of youth services as provided by this act.

(b) The secretary may adopt rules and regulations for the government, regulation and operation of institutions as defined in K.S.A. 76-12a18 and amendments thereto. The secretary may adopt rules and regulations relating to all persons admitted to institutions as defined in K.S.A. 76-12a18 and amendments thereto.

(c) The secretary may enter into an educational services contract with a unified school district, another public educational services provider or a private educational services provider for an institution as defined in K.S.A. 76-12a18 and amendments thereto pursuant to competitive bids or by negotiation as determined by the secretary. Each such educational services contract is exempt from the competitive bid requirements of K.S.A. 75-3739 and amendments thereto.

(d) *The secretary shall not issue a pass, furlough or leave to any juvenile placed in an institution except as needed for such juvenile to obtain medical services or to reintegrate such juvenile into the community. If any juvenile is issued a pass, furlough or leave, such juvenile shall be accompanied by a staff member or other designated adult.*

(e) ~~All institutions shall have secure perimeter fencing.~~

(f) *The secretary, by rules and regulations, shall establish a rigid grooming code and shall issue uniforms to juvenile offenders in the secretary's custody.*

The secretary shall implement an institutional security plan designed to prevent escapes and to prohibit contraband and unauthorized access to the institution and, within the limits of appropriations, construct perimeter fencing as required by the institutional security plan.

a state youth center

[SRS suggestion]

Sec. 139. On and after July 1, 1997, K.S.A. 1995 Supp. 76-12a25 is hereby amended to read as follows: 76-12a25. (a) As used in this section, unless the context otherwise requires: "Key deposit fund" means the moneys that employees pay to a state institution to be held as a security deposit for keys to the buildings or facilities of the state institution; and "State institution" means any institution, as defined by K.S.A. 38-1602 or 76-12a01 or 76-12a18, and amendments thereto.

(b) The superintendent, president, or other chief administrative officer of any state institution may apply to the director of accounts and reports for authority to establish a key deposit fund in the institution

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1 supervised by such officer. In accordance with rules and regulations  
2 adopted under this section, the director of accounts and reports may  
3 authorize the establishment of any such key deposit fund. The director  
4 of accounts and reports shall prescribe a system of accounts and account-  
5 ing procedures to be used in the operation of key deposit funds.

6 (c) Moneys of key deposit funds in an amount prescribed by the di-  
7 rector of accounts and reports shall be retained at the institution as cash  
8 on hand for the purpose of making refunds of deposits to employees  
9 terminating employment at the institution.

10 (d) Moneys of key deposit funds in excess of the amount prescribed  
11 under subsection (c) shall be regularly deposited in an account of a bank,  
12 a savings and loan association or a federally chartered savings bank, which  
13 bank, association or savings bank is insured by the federal government or  
14 an agency thereof, or invested in a credit union which is insured with an  
15 insurer or guarantee corporation as required under K.S.A. 17-2246 and  
16 amendments thereto and is designated by the pooled money investment  
17 board. Except as otherwise directed by the pooled money investment  
18 board, moneys of key deposit funds shall be placed in one or more inter-  
19 est-bearing accounts. Moneys shall be withdrawn regularly from one or  
20 more of such accounts in order to replenish cash on hand to the amount  
21 prescribed in subsection (c) when necessary.

22 (e) The provisions of K.S.A. 75-4217 and amendments thereto and  
23 the provisions relating to security of article 42 of chapter 75 of Kansas  
24 Statutes Annotated shall apply to accounts in banks, savings and loan  
25 associations, credit unions, and federally chartered savings banks under  
26 this section.

27 (f) Interest earned on moneys invested under this section and the  
28 amounts of key deposits forfeited shall be regularly transferred and cred-  
29 ited to the fee fund of the state institution. The director of accounts and  
30 reports shall prescribe the circumstances under which deposits shall be  
31 forfeited.

32 (g) Key funds shall be subject to post audit under the provisions of  
33 the statutes contained in article 11 of chapter 46 of Kansas Statutes An-  
34 notated.

35 (h) The secretary of administration in the manner provided in K.S.A.  
36 75-3706 and amendments thereto shall adopt rules and regulations relat-  
37 ing to key deposit funds.

38 (i) No key deposit fund shall be operated contrary to the provisions  
39 of this act on or after July 1, 1993.

40 Sec. 140. On and after July 1, 1997, K.S.A. 76-2101 is hereby  
41 amended to read as follows: 76-2101. (a) The name of the ~~state industrial~~  
~~school for boys~~ is hereby changed to the youth center at Topeka is hereby  
changed to the juvenile correctional facility at Topeka. On and after the

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links; thence north 7 chains and 8 links; thence west to the northeast corner of the southwest quarter of the northeast quarter of said section 4; thence south 1,320 feet; thence west 1,320 feet; thence north along the quarter line to the northwest corner of the northeast quarter; thence east 478 feet; thence south 547 feet; thence east 1,235 feet more or less; thence north 37 poles more or less to the north line of said section; thence east 57 poles to the point of beginning, less highways, and less a tract of land adjoining Kansas highway 129 on the east, an oblong tract consisting of 0.78 acres occupied by an employee's residence and outbuilding, and less a tract of land as follows. Beginning at the southwest corner of the northeast quarter of section 4, township 7 south, range 7 west; thence north along the quarter section line a distance of 759 feet; thence east at a ninety degree angle a distance of 396 feet; thence south at a ninety degree angle a distance of 759 feet; thence west along south line of the northeast quarter of section 4, township 7 south, range 7 west, a distance of 396 feet to the point of beginning, containing 6.38 acres more or less, exclusive of 30 feet along east side of highway right-of-way";

and which lands are not leased or otherwise encumbered, may be leased or conveyed as provided for in this act, subject to restrictions as hereinabove provided for.

New Sec. 151. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 152. On and after July 1, 1996, K.S.A. 38-1506, 38-1507, 38-1507b, 38-1508, 38-1522, 38-1562, 38-1617, 38-1618 and 38-1624 and K.S.A. 1995 Supp. 38-1502, 38-1507a, 38-1528, 38-1602, 38-1607, 75-7001, 75-7002, 75-7008, 75-7009 and 76-12a21 are hereby repealed.

Sec. 153. On and after July 1, 1997, K.S.A. 10-1208, 20-302b, 21-2511, 21-3413, 21-3611, 21-3612, 21-3826, 22-4701, 28-170, 28-170a, 28-172b, 38-1569, 38-1601, 38-1604, 38-1605, 38-1609, 38-1610, 38-1613, 38-1614, 38-1617, as amended by section 52 of this bill, 38-1618, as amended by section 54 of this bill, 38-1622, 38-1624, as amended by section 57 of this bill, 38-1626, 38-1632, 38-1633, 38-1636, 38-1637, 38-1638, 38-1639, 38-1640, 38-1653, 38-1656, 38-1657, 38-1658, 38-1661, 38-1662, 38-1665, 38-1666, 38-1672, 38-1674, 38-1681, 38-1682, 38-1691, 38-16,111, 38-16,112, 38-16,116, 38-16,117, 38-16,118, 38-16,119, 38-16,120, 39-713c, 39-754, 39-756, 39-756a, 39-1301, 39-1302, 39-1303, 39-1307, 40-1909, 60-460, 65-1626, 72-978, 72-1111, 74-5344, 74-5363, 75-3335, 75-3335a, 75-3336, 75-3336a, 76-12a18, 76-12a19, 76-2101, 76-2101a, 76-2101b, 76-2111, 76-2112, 76-2125, 76-2128, 76-2201, 76-2201a, 76-2210, 76-2211, 76-2219 and 76-2220 and K.S.A. 1995 Supp. 8-237, 38-1602, as amended by section 38 of this bill, 38-1606a, 38-1607, as amended by section 43 of this bill, 38-1608, 38-1611, 38-1616, 38-

1 1635, 38-1641, 38-1652, 38-1655, 38-1663, 38-1664, 38-1668, 38-1671,  
2 38-1673, 38-1675, 38-1676, 38-1677, 38-1692, 38-1813, 39-708c, 39-709,  
3 40-19a10, 40-19b10, 40-19c09, 40-19d10, 41-727, 65-516, 72-962,  
4 72-1113, 74-7335, 74-8810, 74-9501, 75-3765, 75-5206, 75-5220, 75-  
5 5229, 76-375, 76-381, 76-12a20, 76-12a21, as amended by section 138 of  
6 this bill, and 76-12a25 are hereby repealed.  
7 Sec. 154. This act shall take effect and be in force from and after its  
8 publication in the statute book.